

EXHIBIT D

In the Matter Of:
SOCIAL MEDIA CASES
JCCP5255

MOTION
February 17, 2023

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION

SUPERIOR COURT FOR THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 12

HON. CAROLYN B. KUHL, JUDGE

COORDINATION PROCEEDINGS)
SPECIAL TITLE (RULE 3.550))JCCP NO. 5255
)
SOCIAL MEDIA CASES)
_____)

REPORTER'S TRANSCRIPT OF PROCEEDINGS

FEBRUARY 17, 2023

APPEARANCES:

FOR PLAINTIFFS: KIESEL LAW
BY: PAUL R. KIESEL
BY: MARIANA A. MCCONNELL
BY: CHERISSE H. CLEOFÉ
8648 WILSHIRE BLVD.
BEVERLY HILLS, CA 90211

PANISH SHEA BOYLE RAVIPUDI
BY: BRIAN PANISH
300 S. 4TH STREET, #710
LAS VEGAS, CA 89101

BEASLEY ALLEN
BY: JOSEPH VANZANDT
BY: JENNIFER EMMEL
218 COMMERCE STREET
MONTGOMERY, AL 36103

FOR DEFENDANTS: COVINGTON BURLING
BY: PAUL W. SCHMIDT
620 EIGHTH AVENUE
NEW YORK, NY 10018

GAIL PEEPLES, CSR NO. 11458
PRO TEMPORE OFFICIAL REPORTER

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JCCP5255, 02/17/2023

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1 APPEARANCES, CONT.

2 FOR PLAINTIFFS: PANISH SHEA BOYLE RAVIPUDI
3 BY: RAHUL RAVIPUDI
4 BY: JESSE CREED
11111 SANTA MONICA BLVD., #700
LOS ANGELES, CA 90025

5 LIEFF CABRASER HEIMANN BERNSTEIN
6 BY: LEXI HAZAM
7 BY: KELLY MCNABB

8 SCHNEIDER WALLACE COTTRELL KONECKY
9 BY: AMY ESKIN
2000 POWELL STREET, #1400
EMERYVILLE, CA 94608

10 SOCIAL MEDIA VICTIMS LAW CENTER
11 BY: LAURA MARQUEZ GARRETT
12 BY: MATTHEW P. BERGMAN
821 SECOND AVE., #2100
SEATTLE, WA 98104

13 SEEGER WEISS
14 BY: CHRISTOPHER L. AYERS
55 CHALLENGER ROAD
15 RIDGEFIELD PARK, NJ 07660

16 MOTLEY RICE
17 BY: MATHEW P. JASINSKI
20 CHURCH STREET, 17TH FLR.
HARTFORD, CT 06103

18 CASEY GERRY
19 BY: FREDERICK SCHENK
110 LAUREL STREET
20 SAN DIEGO, CA 92101

21 THE CARLSON FIRM
22 BY: RUTH RIZKALLA
1500 ROSECRANS AVE., #500
MANHATTAN BEACH, CA 90266

23 LANIER LAW FIRM
24 BY: RACHEL LANIER
2829 TOWNSGATE RD., #100
WESTLAKE VILLAGE, CA 91361

25 MARGOT CUTTER

26
27 (ADDITIONAL APPEARANCES VIA LA COURTCALL. SEE COURT
28 FILE.)

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

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1 APPEARANCES, CONT.

2 FOR DEFENDANTS: FAEGRE DRINKER

3 BY: TARIFA B. LADDON
11766 WILSHIRE BLVD., #750
4 LOS ANGELES, CA 90025

5 WILSON SONSINI
BY: CHRISTOPHER CHIOU
6 633 WEST FIFTH STREET, #1550
LOS ANGELES, CA 90071

7 MUNGER TOLLES OLSON
BY: JONATHAN H. BLAVIN
8 560 MISSION STREET, 27TH FLR.
SAN FRANCISCO, CA 94105

9 MUNGER TOLLES OLSON
10 BY: VICTORIA A. DEGTYAREVA
350 S. GRAND AVENUE, 50TH FLR.
11 LOS ANGELES, CA 90071

12 KING & SPALDING
BY: GEOFFREY M. DRAKE
13 1180 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

14 KING & SPALDING
15 BY: MATTHEW BLASCHKE
50 CALIFORNIA STREET
16 SAN FRANCISCO, CA 94115

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SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

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INDEX FOR FEBRUARY 17, 2023

VOLUME N/A

MASTER INDEX

CHRONOLOGICAL INDEX OF WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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(NONE)

ALPHABETICAL INDEX OF WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS
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(NONE)

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VOLUME N/A

MASTER INDEX

EXHIBITS

WITHDRAWN/

PLAINTIFF'S FOR I.D. IN EVD. REJECTED

(NONE)

WITHDRAWN/

DEFENDANT'S FOR I.D. IN EVD. REJECTED

(NONE)

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Page 1

1 CASE NUMBER: JCCP 5255
2 CASE NAME: SOCIAL MEDIA CASES
3 LOS ANGELES, CALIFORNIA FEBRUARY 17, 2023
4 DEPARTMENT 12 HON. CAROLYN B. KUHL, JUDGE
5 REPORTER: GAIL PEEPLES, CSR NO. 11458
6 TIME: P.M. PROCEEDINGS
7 APPEARANCES: (AS PREVIOUSLY NOTED.)
8

9 THE COURT: GOOD AFTERNOON, EVERYONE.

10 THIS IS THE BIGGEST GROUP SINCE THE
11 PANDEMIC. IT'S WONDERFUL TO SEE ALL OF YOU.

12 OKAY. THIS IS OBVIOUSLY THE JCCP SOCIAL
13 MEDIA CASES.

14 WE HAVE A COURT REPORTER; I WILL SIGN THE
15 COURT REPORTER'S ORDER.

16 AND I WILL TAKE APPEARANCES IN THE
17 COURTROOM STARTING ON PLAINTIFFS' SIDE.

18 MR. VANZANDT: YOUR HONOR, JOSEPH VANZANDT FROM
19 BEASLEY ALLEN LAW FIRM.

20 AND I HAVE A PHV APPLICATION PENDING THAT
21 HAS NOT BEEN APPROVED, SO, I WANTED --

22 THE COURT: ALL OF YOU WHO HAVE PENDING PRO HAC
23 VICES, I WILL HEAR FROM ALL OF YOU. AT THE END WE WILL
24 TALK ABOUT TRYING TO SPEED THAT PROCESS ALONG.

25 GO AHEAD.

26 MR. RAVIPUDI: GOOD AFTERNOON. RAHUL RAVIPUDI
27 FROM PANISH SHEA BOYLE RAVIPUDI --

28 THE COURT: EVERYBODY, IF YOU WOULD SPEAK INTO THE

1 MICROPHONE BECAUSE THAT'S THE WAY PEOPLE ONLINE WILL
2 HEAR.

3 I'M SORRY, PEOPLE ON COURTCONNECT, I FORGOT
4 TO UNMUTE MY VIDEO. NOW IT'S UNMUTED. YOU CAN SEE ME.

5 MR. PANISH.

6 MR. PANISH: GOOD AFTERNOON, YOUR HONOR. BRIAN
7 PANISH FOR THE PLAINTIFFS.

8 MR. BERGMAN: GOOD AFTERNOON, YOUR HONOR. MATTHEW
9 BERGMAN, SOCIAL MEDIA VICTIMS LAW CENTER, FOR THE
10 PLAINTIFFS.

11 MR. KIESEL: YOUR HONOR, PAUL KIESEL FOR THE
12 PLAINTIFFS AS WELL.

13 THE COURT: OKAY. I'M GLAD TO HEAR APPEARANCES
14 FROM ANYBODY ELSE. I MEAN, WE HAVE YOUR CARDS. BUT,
15 ANYBODY WANTS TO STATE YOUR APPEARANCE, VERY GLAD TO HEAR
16 FROM YOU.

17 MS. MCCONNELL: GOOD AFTERNOON, YOUR HONOR.
18 MARIANA MCCONNELL FROM KIESEL LAW.

19 MS. GARRETT: GOOD AFTERNOON, YOUR HONOR. LAURA
20 MARQUEZ GARRETT FROM SOCIAL MEDIA VICTIMS LAW CENTER.

21 THE COURT: ANYBODY ELSE APPEAR AT THIS POINT?

22 MS. HAZAM: GOOD AFTERNOON, YOUR HONOR. LEXI
23 HAZAM OF LIEFF CABRASER HEIMANN BERNSTEIN FOR THE
24 PLAINTIFFS.

25 THE COURT: AND YOU CAN USE THE MIDDLE AS WELL.

26 MS. MCNABB: GOOD AFTERNOON, YOUR HONOR. KELLY
27 MCNABB FOR THE PLAINTIFFS.

28 MS. ESKIN: GOOD AFTERNOON, YOUR HONOR. AMY ESKIN

1 OF SCHNEIDER WALLACE COTTRELL KONECKY FOR PLAINTIFF.

2 THE COURT: OKAY. WE HAVE EVERYBODY ELSE'S
3 APPEARANCES.

4 I'LL HEAR FROM DEFENDANTS THEN.

5 MS. SIMONSEN: GOOD AFTERNOON, YOUR HONOR. ASHLEY
6 SIMONSEN OF COVINGTON BURLING FOR THE META DEFENDANTS.

7 MR. SCHMIDT: GOOD AFTERNOON, YOUR HONOR. PAUL
8 SCHMIDT OF COVINGTON BURLING FOR THE META DEFENDANTS.

9 MR. CHIOU: GOOD AFTERNOON, YOUR HONOR.
10 CHRISTOPHER CHIOU WITH WILSON SONSINI FOR GOOGLE,
11 ALPHABET, AND YOUTUBE.

12 MS. LADDON: GOOD AFTERNOON, YOUR HONOR. TARIFA
13 LADDON WITH FAEGRE DRINKER FOR TIKTOK AND BYTEDANCE.

14 MR. BLAVIN: GOOD AFTERNOON, YOUR HONOR. JONATHAN
15 BLAVIN FROM MUNGER TOLLES FOR DEFENDANTS SNAP.

16 MR. BLASCHKE: GOOD AFTERNOON, YOUR HONOR.
17 MATTHEW BLASCHKE WITH KING & SPALDING FOR TIKTOK AND
18 BYTEDANCE.

19 AND I AM JOINED BY MY COLLEAGUE JEFF DRAKE,
20 WHO HAS A PRO HAC APPLICATION.

21 MR. DRAKE: GOOD AFTERNOON, YOUR HONOR.

22 MS. DEGTYAREVA: GOOD AFTERNOON, YOUR HONOR.
23 VICTORIA DEGTYAREVA FROM MUNGER TOLLES & OLSON ALSO ON
24 BEHALF THE DEFENDANT SNAP.

25 THE COURT: OKAY. I KNOW THAT EVERYBODY ONLINE
26 HAS GIVEN YOUR APPEARANCES TO THE CLERK, AND SO, I'M NOT
27 GOING TO HAVE EVERYBODY REPEAT THEM BECAUSE SOMETIMES
28 IT'S HARD TO DO THAT ALL IN ORDER. PEOPLE IN THE

1 COURTROOM KNOW YOU'RE THERE BECAUSE YOU HAVE STATED YOUR
2 APPEARANCES IN FRONT OF THEM.

3 COUPLE OF HINTS. IF YOU CAN'T HEAR FOLKS
4 AT ANY POINT, BE SURE TO SPEAK UP. IF YOU'RE TRYING TO
5 SPEAK UP AND YOU FEEL LIKE WE'RE NOT HEARING YOU, THERE
6 MAY BE A TECHNICAL ISSUE. PUT SOMETHING IN THE CHAT.
7 THAT'S A WAY TO REACH OUT AND SAY SOMETHING'S GOING WRONG
8 TECHNICALLY.

9 AND IF YOU'RE HAVING TROUBLE WITH BEING ON
10 MUTE --

11 WHAT IS IT, MISS MIRO?

12 STAR 6. OKAY.

13 ALL RIGHT. THOSE ARE THE PRELIMINARIES.

14 YOU CAN BE SEATED UNLESS YOU'RE ADDRESSING
15 THE COURT. REMEMBER TO USE THE MICROPHONES.

16 AND FIRST OF ALL, I WANT TO COMPLIMENT
17 EVERYONE ON YOUR -- ON THE REPORT, THE VERY FINE REPORT,
18 YOU PROVIDED ABOUT THE ORGANIZATION. THAT WAS VERY GOOD.
19 AND YOU APPEAR TO BE IN A REASONABLY CIVIL AND
20 CONSTRUCTIVE MODE IN DEALING WITH EACH OTHER ON
21 PROCEDURAL ISSUES, AND THE COURT APPRECIATES THAT.

22 FOR THOSE OF YOU WHO HAVE NOT BEEN IN OUR
23 COMPLEX COURTS OR MAYBE HAVEN'T BEEN HERE VERY OFTEN,
24 JUST LET ME GIVE YOU A BIT OF AN INTRODUCTION.

25 WE HAVE -- WE HAVE GOALS IN OUR COMPLEX
26 COURT PROGRAM. THEY ARE IN CALIFORNIA RULE OF COURT
27 3.400. AND THEY ARE, NUMBER ONE, TO MOVE CASES TO
28 RESOLUTION; NUMBER TWO, TO REDUCE LITIGATION COSTS TO THE

1 EXTENT POSSIBLE FOR THE PARTIES; AND NUMBER THREE, TO
2 IMPROVE THE QUALITY OF DECISIONMAKING FOR COUNSEL FOR THE
3 CLIENTS, FOR JURIES ULTIMATELY, AND FOR THE COURT.

4 SO, THAT LAST ONE IS A LITTLE BIT NEBULOUS,
5 BUT IT MEANS TO ME THAT I AM ALWAYS TRYING TO CREATE AN
6 EVEN PROCEDURAL PLAYING FIELD SO THAT EVERYBODY CAN MAKE
7 THEIR BEST ARGUMENTS ON THE MERITS. OKAY?

8 AND IN TRYING TO REDUCE LITIGATION COSTS,
9 WE TRY TO GET AS SOON -- AS QUICKLY AS POSSIBLE TO CORE
10 FACTUAL ISSUES AND CORE LEGAL ISSUES. AND THAT, IN
11 GENERAL, WILL FURTHER EARLY RESOLUTION OF CASES.

12 SO, YOU KNOW, THE MDL JUDGES DON'T DO IT
13 VERY DIFFERENTLY. BUT, WE APPLY THOSE PRINCIPLES SORT OF
14 ACROSS THE BOARD IN WHAT WE DO IN OUR COMPLEX PROGRAM.

15 WE ALSO, SPECIFIC TO OUR CALIFORNIA COURTS,
16 HAVE ETHICAL REQUIREMENTS TO MAKE DISCLOSURES IN
17 SITUATIONS THAT DO NOT REQUIRE RECUSAL BUT THAT MAY BE
18 THINGS THAT COUNSEL WISH TO KNOW ABOUT THE COURT'S
19 RELATIONSHIPS WITH OTHERS WHO ARE INVOLVED IN LITIGATION.

20 SO, I HAVE KIND OF A LIST HERE. MOST OF
21 YOU WHO -- MOST OF YOU WILL KNOW, WHO LOOK THINGS UP,
22 THAT I WAS A PARTNER AT MUNGER TOLLES & OLSON 27 YEARS
23 AGO. UNBELIEVABLE. 27 YEARS AGO. AT THAT TIME MISS
24 KRISTIN LINSLEY, WHO'S BEEN ON THE PAPERS, WAS MY
25 PARTNER.

26 GIBSON DUNN & CRUTCHER WAS MY HUSBAND'S LAW
27 FIRM 24 YEARS AGO.

28 I HAVE BEEN INVOLVED IN BAR ACTIVITIES WITH

1 A NUMBER OF THE PLAINTIFFS' COUNSEL IN THESE CASES:
2 MR. KIESEL WITH LA COUNTY BAR ASSOCIATION; MR. CONNIFF,
3 WHOSE NAME I SAW ON THE PAPERS, ALTHOUGH I DON'T KNOW IF
4 HE'S ON, IS -- I WAS ACTIVE WITH HIM IN THE AMERICAN LAW
5 INSTITUTE AGGREGATE LITIGATION PROJECT. AND HE WAS JUST
6 ELECTED TO THE COUNCIL OF THE AMERICAN LAW INSTITUTE.

7 MISS HASAM'S PARTNER MISS CABRASER WAS PART
8 OF THE AMERICAN LAW INSTITUTE COUNCIL AND THE FEDERAL
9 RULES STANDING COMMITTEE.

10 MR. PANISH WAS LEAD COUNSEL IN SOCAL GAS
11 CASES, WHICH ARE APPROACHING RESOLUTION, WITH MANY
12 COMPLICATED ISSUES SURROUNDING THE SETTLEMENT, AS WELL AS
13 MR. CREED, WHO MADE A LARGE CONTRIBUTION TO ORGANIZING
14 THINGS.

15 AND MR. CREED CAME FROM MUNGER TOLLES AND
16 OLSON TOO ALTHOUGH NOT WHEN I WAS THERE.

17 AND I ALSO SERVED WITH JUDGE GONZALES
18 ROGERS ON THE COUNCIL OF AMERICAN LAW INSTITUTE, SO, I
19 CONSIDER HER A FRIEND.

20 I MAY BE MISSING SOME CONNECTIONS, BUT
21 THOSE ARE THE PRINCIPLE ONES. SO, JUST SO YOU KNOW.

22 SO, WE'LL START MORE OR LESS IN THE ORDER
23 THAT YOU HAVE THINGS IN THE REPORT, ALTHOUGH I'LL GO OUT
24 OF ORDER A LITTLE BIT AT SOME POINTS.

25 SO, YOU HAVE GOT A PROPOSED ADD-ON ORDER
26 THAT IS EXHIBIT B.

27 AND ON MY REVIEW OF IT, IT LOOKS AS THOUGH
28 THESE ARE CASES THAT HAVE NOT YET BEEN COORDINATED. I

1 ISSUED AN ORDER LAST FRIDAY WHERE I TRIED TO KIND OF
2 CLEAN THINGS UP AND TAKE EVERYTHING THAT I KNEW OF.

3 SO, IF YOU COULD JUST KIND OF CONFIRM FOR
4 ME THAT THOSE ARE IN FACT CASES THAT WERE NOT IN MY ORDER
5 FROM LAST WEEK.

6 MR. KIESEL: JESSE CREED WILL TAKE THAT ON.

7 MR. CREED: THIS IS JESSE CREED.

8 SORRY I COULDN'T BE IN THE COURTROOM THIS
9 AFTERNOON.

10 THOSE CASES ARE NOT ON THE LIST THAT YOU
11 INCLUDED.

12 AND THERE ARE TWO BLANKS FOR CASE NUMBERS
13 ON PAGE 3 OF THE PROPOSED ORDER. I -- I'M SURE AT THIS
14 POINT WE PROBABLY HAVE THOSE CASE NUMBERS, SO, WE CAN
15 SEND THOSE TO YOUR STAFF IF YOU WOULD LIKE.

16 THE COURT: WELL, PRESUMABLY -- YOU ALSO HOPEFULLY
17 INCLUDED THE FACT IN THE DRAFT ORDER OF PRESENTING A HARD
18 COPY -- LODGING A HARD COPY WITHIN THREE DAYS. SO,
19 PRESUMABLY THERE WILL BE A CASE NUMBER BY THEN.

20 I WAS SAYING TO MY STAFF THE COURT DOESN'T
21 ISSUE CASE NUMBERS WHEN YOU FILE A CASE. BUT, I GUESS WE
22 HAVE A COUPLE.

23 OKAY. SO, I WILL SIGN THE ORDERS THAT SAID
24 EXHIBIT B TO ADD ON THOSE CASES.

25 WITH REGARD TO ADDITIONAL CASES, DO YOU --
26 DO PLAINTIFF'S COUNSEL HAVE ANY
27 QUANTIFICATION OR TIME FRAME ON THOSE?

28 MS. KIESEL: YOUR HONOR, PAUL KIESEL.

1 THE ANTICIPATION IS THERE WILL BE A
2 SIGNIFICANT NUMBER OF ADDITIONAL CASES COMING ONLINE.
3 HAVING A PROCESS TO BRING THEM INTO THIS COURT, WE'D LIKE
4 TO TALK TO YOU ABOUT WHETHER YOU WANT DIRECT FILING OR
5 HAVE IT FILED IN THE COUNTY WHICH IT WOULD OTHERWISE BE
6 FILED AND HAVE IT TRANSFERRED DOWN.

7 I DON'T KNOW THE COURT'S THOUGHTS ON THOSE.
8 BUT, THERE WILL CERTAINLY BE --

9 THE COURT: WHAT DO YOU MEAN BY SIGNIFICANT
10 NUMBER, MR. KIESEL?

11 MR. KIESEL: FAIR ENOUGH, YOUR HONOR.

12 I MEAN, I THINK IF YOU LOOK AT THE STATUS
13 CONFERENCE REPORT, IT GAVE YOU THE TOTAL NUMBER OF CASES
14 ACROSS THE COUNTRY. IT'S 183 CASES; BUT, THE NUMBER OF
15 FOLKS INVOLVED IS OBVIOUSLY SUBSTANTIALLY LARGER THAN
16 THAT.

17 SO, MY EXPECTATION IS THAT THAT NUMBER WILL
18 BE DOUBLED, IF NOT MORE THAN THAT, IN THE FORESEEABLE
19 FUTURE. A LOT WILL DEPEND, OF COURSE, WHAT HAPPENS IN
20 THE FUTURE. BUT, I THINK THAT WE CAN ANTICIPATE A LARGER
21 NUMBER OF CASES THAN WE CURRENTLY HAVE IN THE JCCP
22 CURRENTLY.

23 THE COURT: FOR NOW THE WAY I LIKE TO ADD CASES ON
24 IS THROUGH STATUS CONFERENCE REPORTS. OKAY?

25 SO, IF YOU WOULD -- AS THEY ARE FILED -- AS
26 THEY ARE FILED IN LA, THEY LIKELY -- IF THE COMPLEX BOX
27 IS CHECKED, THEY WILL FIND THEIR WAY HERE.

28 IF THEY'RE FILED IN OTHER COURT -- IN OTHER

1 COURTS -- AND THEY SHOULD BE FILED IN THE COUNTY WHERE
2 VENUE IS PROPER -- THEY -- YOU ALL WILL KNOW ABOUT THEM
3 AND WILL -- YOU WILL MENTION THEM IN STATUS REPORTS AND
4 WE'LL ADD THEM ON THAT WAY.

5 IF THAT MAKES SENSE.

6 MR. KIESEL: THAT'S PERFECT. WE'LL WORK WITH
7 DEFENSE COUNSEL, WHO LIKELY WILL HAVE FIRST NOTICE OF
8 SOME OF THOSE FILINGS, AND WE WILL PREPARE A REPORT FOR
9 THE COURT AT EACH STATUS CONFERENCE.

10 IF THERE IS A LAWYER THAT DOESN'T KNOW
11 ABOUT THE JCCP AND THEY FILE IN AN ALTERNATIVE COUNTY, WE
12 WILL REACH OUT TO THEM AND BRING IT BEFORE THE COURT.

13 THE COURT: ALL RIGHT. THAT'S FINE.

14 THERE IS AN ALTERNATIVE PATH WHICH I THINK
15 WOULD BE MORE TROUBLE FOR YOU ALL, BUT WE CAN TALK ABOUT
16 THAT NEXT TIME. OKAY?

17 SOUNDS GOOD.

18 SO, I NOTED THAT YOU DID NOT OBJECT TO MY
19 COMMUNICATING WITH JUDGE GONZALES ROGERS, SO, I WILL
20 THEREFORE FEEL FREE TO DO THAT. SHE DID SEND ME SOME OF
21 HER EARLY ORDERS, SO, I HAVE THOSE. I WILL REFER TO
22 THOSE A LITTLE BIT LATER.

23 I AM SIGNING -- OR WILL SIGN THE ORDER FOR
24 SERVICE VIA CASEANYWHERE AND SERVICE AND FILING BY
25 CASEANYWHERE.

26 SO, FOR THOSE WHO ARE NOT FAMILIAR,
27 CASEANYWHERE HAS A MESSAGE BOARD FEATURE ON IT. AND IN
28 OUR COMPLEX COURTS, WE ALLOW AND ENCOURAGE COUNSEL TO

1 CONTACT THE COURT IF IT IS SOMETHING SIMPLE. OR DOWN THE
2 LINE -- WE'LL TALK MORE ABOUT IT. BUT, IF THERE IS A
3 DISAGREEMENT THAT MIGHT LEAD TO A MOTION BEING FILED, WE
4 WANT COUNSEL TO LET US KNOW IN SHORT POSTINGS.

5 BUT, EACH SIDE HAS TO PARTICIPATE. AT
6 LEAST PLAINTIFFS AND DEFENDANTS HAVE TO PARTICIPATE SO
7 THAT WE DON'T HAVE A SERIES OF HE SAID/SHE SAID POSTINGS
8 GOING BACK AND FORTH. SO, YOU DON'T HAVE TO AGREE, BUT
9 EACH SIDE HAS TO SAY WHAT THEIR POSITION IS. OKAY?

10 SO, THAT'S THE WAY TO USE THE BOARD.

11 AND IT'S GREAT FOR CONTINUING DATES AND
12 VARIOUS THINGS LIKE THAT.

13 REGARDING PROTECTIVE ORDER, I AM HAPPY FOR
14 COUNSEL TO -- COUNSEL HERE TO COORDINATE WITH COUNSEL IN
15 THE MDL TO COME UP WITH A PROTECTIVE ORDER.

16 I WILL ADD, HOWEVER, THAT FOR THE
17 PROTECTIVE ORDER THAT IS APPLICABLE IN STATE COURT IT
18 MUST INCLUDE A REFERENCE TO CALIFORNIA RULE OF COURT
19 2.550, WHICH GOVERNS DOCUMENTS THAT ARE FILED UNDER SEAL
20 WITH THE COURT.

21 WE HAVE RATHER STRICTER RULES THAN THE
22 FEDERAL COURTS DO WITH REGARD TO THINGS THAT GET FILED IN
23 THE COURT. AND, SO, I WILL REQUIRE THAT THE PROTECTIVE
24 ORDER THAT GOVERNS THIS CASE HAVE PARAGRAPHS IN IT THAT
25 REFER TO THOSE RULES AND THAT WILL SAY THAT COUNSEL WILL
26 FOLLOW THOSE RULES.

27 FOR YOUR REFERENCE, THERE IS ON THE LA
28 SUPERIOR COURT COMPLEX COURT'S WEBSITE TWO FORM

1 PROTECTIVE ORDERS THAT WE RECOMMEND. THEY WERE DRAFTED
2 BY A COMMITTEE OF ONE OF OUR FORMER JUDGES TOGETHER WITH
3 A COMMITTEE OF COUNSEL ON BOTH SIDES OF THE V. THERE ARE
4 TWO DIFFERENT TYPES. AND MANY, MANY TIMES IT IS
5 SUFFICIENT.

6 YOU HAVE GOT SOME SPECIAL ISSUES HERE, SO,
7 IT MAY NOT BE TOTALLY SUFFICIENT. BUT, AT LEAST WITH
8 REGARD TO THE CALIFORNIA RULE OF COURT 2.500, ET SEQ.,
9 ISSUES YOU SHOULD BE ABLE TO TAKE THOSE PARAGRAPHS OUT
10 AND USE IT.

11 OKAY SO FAR?

12 ALL RIGHT. HERE IS AN ISSUE THAT I DID NOT
13 RAISE IN THE ORDER SETTING UP THIS INITIAL STATUS
14 CONFERENCE. AND IT HAS TO DO WITH DOE PARTIES.

15 NOW, WE DON'T HAVE DOE PARTIES IN THESE
16 CASES, BUT WE HAVE PARTIES THAT ARE IDENTIFIED BY
17 INITIALS. SO, THEY ARE PSEUDOMONAS IF YOU PLEASE.

18 THERE IS A REALLY RECENT CALIFORNIA COURT
19 OF APPEAL CASE THAT REQUIRES THE COURT TO GRANT
20 PERMISSION TO PROCEED UNDER PSEUDONYM. I AM GLAD TO
21 ORDER THAT PLAINTIFFS WHO ARE MINORS CAN PROCEED UNDER
22 PSEUDONYMS GIVEN THE ALLEGATIONS HERE ABOUT
23 MENTAL/EMOTIONAL HEALTH.

24 BUT, WHAT I WOULD LIKE LEADERSHIP COUNSEL
25 TO DO IS TO PRESENT AN APPROPRIATE ORDER FOR MY SIGNATURE
26 SO I CAN JUST HAVE A BLANKET RULE ON THAT AND WE WON'T
27 HAVE TO WORRY ABOUT IT.

28 THE APPELLATE CASE TALKS ABOUT THE SORT OF,

1 YOU KNOW, PUBLIC POLICY ISSUES ABOUT TRANSPARENCY OF
2 COURT PROCEEDINGS. SO, I FELT LIKE I NEEDED TO RAISE
3 THAT SUA SPONTE IF YOU WILL.

4 THEN ALSO -- I SAW JUDGE GONZALES ROGERS
5 WANTED THIS AS WELL.

6 I WANT A SPREADSHEET OF ALL THE CASES. AND
7 THAT SHOULD HAVE THE LEGAL NAME OF EACH PARTY ON IT AND
8 ORGANIZED BY CASE NUMBER. IF IT'S AN EXCEL SPREADSHEET,
9 THAT WILL BE GREAT BECAUSE IT CAN BE SORTED DIFFERENT
10 WAYS.

11 BUT, ESSENTIALLY, THE CASE NUMBER, THE
12 COUNSEL, THE -- THE LEGAL NAMES OF THE PARTIES, AND
13 THE -- WHICH DEFENDANTS ARE SUED. AND ANYTHING ELSE THAT
14 YOU -- YOU KNOW, LEAVE SOME BLOCKS. WE MAY HAVE SOME
15 THINGS DOWN THE LINE. THAT WILL BE HELPFUL.

16 BUT, IF YOU WILL START PREPARING THAT.

17 AND THAT WILL GET -- THAT SHOULD BE
18 PREPARED BY LIAISON COUNSEL ON PLAINTIFFS' SIDE. IT
19 SHOULD BE SERVED ON THE DEFENDANTS BUT SUBJECT TO THE
20 PROTECTIVE ORDER. SO, WE'LL NEED THE PROTECTIVE ORDER
21 FIRST BEFORE YOU DO THAT. AND THEN -- AND THEN LODGED
22 UNDER SEAL WITH THE COURT.

23 SO, MY STAFF KEEPS TRACK OF THOSE.

24 MISS MIRO?

25 COURTROOM ASSISTANT: AND EMAIL PLEASE.

26 THE COURT: E-MAIL IT TO MISS MIRO.

27 OKAY. LET'S TALK ABOUT THE PLEADINGS A
28 MINUTE.

1 AND BECAUSE -- PRETTY OBVIOUSLY IF WE'RE
2 GOING TO HAVE A MASTER COMPLAINT AND INDIVIDUAL JOINDERS
3 WE'RE GOING TO NEED TO HAVE THAT ACCOMPLISHED BEFORE WE
4 CAN MOVE FORWARD WITH PLEADING CHALLENGES.

5 BUT, EVERYBODY IS OKAY WITH THE CONCEPT OF
6 A MASTER COMPLAINT ON THE PLAINTIFFS' SIDE?

7 MR. VANZANDT: JOSEPH VANZANDT.

8 YES, YOUR HONOR.

9 THE COURT: SO, JUDGE GONZALES ROGERS ORDERED
10 MASTER COMPLAINTS BE FILED BY FEBRUARY 14 IN THE MDL.

11 DID THAT HAPPEN?

12 MR. VANZANDT: YES, YOUR HONOR. THAT HAPPENED.

13 THE COURT: GOOD.

14 WERE THERE ANY PROBLEMS WITH THAT THAT WE
15 SHOULD TAKE INTO ACCOUNT HERE?

16 MR. VANZANDT: NOT FROM PLAINTIFFS' PERSPECTIVE.

17 THE COURT: OKAY.

18 MS. SCHMIDT: PAUL SCHMIDT FOR META.

19 FROM THE DEFENSE PERSPECTIVE, WE ARE
20 CURRENTLY LOOKING AT HOW THE COMPLAINT TRACKS TO THE
21 MOTION PRACTICE. WE'RE GOING TO HAVE -- ON THE COMPLAINT
22 WE HAVE GOT ANOTHER CASE MANAGEMENT CONFERENCE WITH JUDGE
23 GONZALES ROGERS ON THE 3RD THAT WE WILL BE WORKING SOME
24 OF THOSE QUESTIONS OUT IN TERMS OF LIMITATIONS AND HOW
25 SHE SET UP THE PLEADING PROCESS.

26 BUT, IN TERMS OF THE COMPLAINT ITSELF, WE
27 HAVEN'T RAISED ISSUES. WE'RE NOW IN THE SHORT FORM
28 COMPLAINT PROCESS.

1 THE COURT: SO, YOU KNOW WHAT WOULD BE HELPFUL?
2 IF ONE SIDE OR THE OTHER WOULD TAKE ON THE DUTY OF
3 POSTING ON CASEANYWHERE ANYTHING THAT COMES OUT OF JUDGE
4 GONZALES ROGERS' COURT.

5 WHAT DO I MEAN BY THAT? YOU'RE LOOKING AT
6 ME, AND I SHOULD BE MORE SPECIFIC.

7 HER ORDERS. HER ORDERS. AND IN THIS
8 INSTANCE I WOULD LOVE TO SEE THE MASTER COMPLAINT. THAT
9 WOULD BE HELPFUL TO ME. AS IT CURRENTLY EXISTS.

10 MR. KIESEL: QUICK POINT.

11 I THINK WE'RE GOING BACK TO THE LAST ISSUE
12 OF THE EXCEL SPREADSHEET UNDER SEAL.

13 WHEN YOU SAY UNDER SEAL, YOU WANT THE LEGAL
14 NAME OF THE MINOR TO BE FILED; NOT THE INITIALS, BUT THE
15 LEGAL NAMES? THAT'S UNDER SEAL --

16 THE COURT: CORRECT --

17 MR. KIESEL: -- BECAUSE OTHERWISE IT'S A PUBLIC
18 DOCUMENT.

19 THE COURT: OF COURSE.

20 MR. KIESEL: UNDERSTOOD.

21 THE COURT: AND THAT'S WHY -- YOU KNOW, DEFENDANT
22 GETS IT. BUT, IT'S UNDER SEAL FOR THAT REASON.

23 MR. SCHMIDT: PAUL SMITH AGAIN FOR META.

24 JUST ON THE POINT ABOUT THE MASTER
25 COMPLAINT AND GETTING THAT TO YOUR HONOR, THERE WAS A
26 PUBLIC VERSION FILED ON THE RECORD THAT HAS A LARGE
27 NUMBER OF REDACTIONS. WE ARE CURRENTLY WORKING THROUGH
28 PROTECTIVE ORDER ISSUES IN THE MDL. WOULD YOUR HONOR

1 LIKE THAT VERSION? DO YOU WANT US TO HOLD OFF UNTIL WE
2 HAVE A PROTECTIVE ORDER --

3 THE COURT: DEPENDS ON HOW YOU FEEL ABOUT
4 CASEANYWHERE.

5 WE HAVE OFTEN USED CASEANYWHERE AS A PLACE
6 WHERE THE PARTIES FEEL COMFORTABLE POSTING UNREDACTED
7 VERSIONS WHICH WOULD NOT EVER GO IN THE COURT FILE.

8 MR. SCHMIDT: I THINK FROM THE DEFENSE PERSPECTIVE
9 WE WOULD PREFER TO ONLY PUT THE REDACTED VERSION ON
10 CASEANYWHERE UNTIL WE SORT OUT SOME PROTECTIVE ORDER
11 ISSUES IF THAT'S ACCEPTABLE TO THE COURT.

12 BUT, IF NOT, THEN WE'LL OBVIOUSLY COMPLY
13 WITH WHAT'S BEST FOR THE COURT.

14 THE COURT: SO, BRING IT IN AND LODGE IT IN HARD
15 COPY THEN. OKAY?

16 MR. KIESEL: AND YOUR HONOR, JUST FOLLOWING UP,
17 THE MDL IS PREPARED TO OFFER THE COURT AN EMAIL DIRECT OF
18 THE NON-REDACTED VERSION OF THE COMPLAINT IF THE COURT
19 WANTS TO HAVE THAT.

20 THE COURT: THAT'S FINE.

21 OR YOU CAN BRING IT IN HARD COPY. YOU CAN
22 USE CASEANYWHERE TO LET ME KNOW WHAT'S COMING IN AND HOW.
23 OKAY? THAT WILL BE GOOD.

24 ALL RIGHT. THANK YOU.

25 SO -- AND DID YOU DO A FORM -- I THINK
26 MAYBE THE SCHEDULE WAS SUCH THAT YOU DON'T HAVE A FORMAT
27 FOR THE INDIVIDUAL JOINDERS.

28 IS THAT CORRECT?

1 MISS HAZAM, GO AHEAD.

2 MS. HAZAM: IF I MAY, YOUR HONOR, LEXI HAZAM OF
3 LIEFF CABRASER FOR PLAINTIFFS.

4 WE HAVE PROPOSED A FORMAT FOR A SHORT FORM
5 COMPLAINT TO DEFENDANTS, AND THE MEET AND CONFER PROCESS
6 REGARDING IT HAS BEGUN. WE EITHER NEED TO SUBMIT AN
7 AGREED UPON FORMAT OR OUR REMAINING DISPUTES BY FEBRUARY
8 28 TO JUDGE GONZALES ROGERS.

9 THE COURT: OKAY. WHILE WE'RE TALKING ABOUT
10 THIS -- AND I KNOW YOU'RE INVOLVED IN THE MDL -- WAS
11 THERE ANY KIND OF CONFERRING PROCESS WITH REGARD TO THE
12 MASTER COMPLAINT BETWEEN DEFENDANTS AND PLAINTIFFS?

13 MS. HAZAM: CONFERRING PROCESS REGARDING THE
14 CONTENT OF IT?

15 OR WHAT KIND OF A CONFERRING PROCESS ARE
16 YOU REFERRING TO, YOUR HONOR?

17 THE COURT: BECAUSE ORDINARILY WHAT WE HAVE DONE
18 HERE WITH MASTER COMPLAINTS IS THAT PLAINTIFFS WILL SHOW
19 A DRAFT TO THE DEFENDANTS AND LISTEN TO THEIR PROBLEMS
20 WITH IT.

21 NOW, WE KNOW THAT WE GOT BIG PROBLEMS;
22 RIGHT? 230 AND THOSE BIG PROBLEMS.

23 BUT OTHER THINGS THAT THEY MIGHT HAVE THAT
24 IF PLAINTIFFS KNOW AHEAD OF TIME THEY MIGHT WISH TO PLEAD
25 AROUND THE PROBLEM TO SORT OF, YOU KNOW, DIMINISH
26 PROBLEMS.

27 NO OBLIGATION TO DO THAT; BUT THAT'S WHAT
28 I'M USED TO I GUESS.

1 SO, DID YOU DO THAT THERE OR NO?

2 MS. HAZAM: THANK YOU FOR THE CLARIFICATION, YOUR
3 HONOR.

4 WE DID NOT MEET AND CONFER BEFOREHAND ABOUT
5 ANY PLEADING PROBLEMS. THEY WERE IDENTIFIED AT SOME
6 LENGTH BY BOTH SIDES IN STATUS CONFERENCE STATEMENTS --
7 IN OTHER WORDS, ANTICIPATED MOTIONS AND GROUNDS FOR
8 THEM -- IN A MANNER SOMEWHAT SIMILAR TO WHAT YOU HAVE
9 BEFORE YOU IN THE STATUS REPORT.

10 BUT, THERE WAS NOT MEET AND CONFER ABOUT
11 THAT SPECIFICALLY IN ADVANCE OF THE FILING.

12 THE COURT: OKAY. ALL RIGHT. UNDERSTOOD.

13 SO, LET'S TALK ABOUT -- LET'S TALK ABOUT
14 HERE THEN.

15 WHEN -- YOU HAVE SORT OF AN IDEA OF WHEN
16 PLAINTIFFS WILL BE READY TO FILE A MASTER COMPLAINT HERE?

17 ASSUMING THERE IS NO CONFER PROCESS WITH
18 THE DEFENDANT; AND THEN WE'LL TALK ABOUT WHETHER THERE
19 WILL BE ONE.

20 MR. VANZANDT: YOUR HONOR, WE HAVE DISCUSSED 60
21 DAYS IN ORDER TO HAVE THE MASTER PLEADING FILED.

22 THE COURT: OKAY.

23 AND, THEN, DIFFERENT QUESTION. FROM THE
24 TIME WHEN YOU AGREE ON A FORM, WHAT ARE YOU CALLING YOUR
25 INDIVIDUAL JOINDER IN THAT CASE? WHAT ARE YOU CALLING
26 IT?

27 MR. PANISH: I DON'T THINK IT'S ADDRESSED --

28 MR. KIESEL: SHORT FORM COMPLAINTS, YOUR HONOR.

1 THE COURT: SHORT FORM. OKAY. WE CAN CALL IT
2 THAT TOO.

3 MR. VANZANDT: AND YOUR HONOR, WE ARE PLANNING TO
4 AND HAVE DISCUSSED MEET AND CONFER WITH THE DEFENDANTS ON
5 A SCHEDULE FOR THE MASTER COMPLAINT, THE SHORT FORM
6 COMPLAINT, AND THEN A SCHEDULE RELATED TO THAT WE CAN
7 SUBMIT TO YOUR HONOR --

8 THE COURT: FOR THIS CASE?

9 MR. VANZANDT: YES, YOUR HONOR.

10 THE COURT: AND YOU HAVE TALKED ABOUT THAT?

11 MR. VANZANDT: WE TALKED ABOUT CONFERRING --

12 THE COURT: OKAY. ALRIGHT.

13 I WANT TO ASK A DIFFERENT QUESTION, WHICH
14 IS FROM THE TIME WHEN YOU HAVE AGREED FORMS HOW LONG,
15 APPROXIMATELY, WOULD IT TAKE TO HAVE EACH PLAINTIFF -- OR
16 IN EACH CASE TO FILE THE SHORT FORM COMPLAINT?

17 MR. VANZANDT: YOUR HONOR, WE THINK 30 DAYS WOULD
18 BE REASONABLE FOR THAT IN ORDER TO GET --

19 THE COURT: YOU CAN GET THEM ALL DONE IN 30 DAYS?

20 MR. VANZANDT: I BELIEVE SO, YOUR HONOR. BASED ON
21 THE NUMBER OF CASES THAT ARE FILED RIGHT NOW, WE COULD
22 GET THOSE DONE IN 30 DAYS.

23 AND, OBVIOUSLY, OTHER PLAINTIFFS WILL FILE
24 THEM AS THEY COME ALONG.

25 THE COURT: OKAY. OKAY.

26 SO, WHAT DO YOU -- WHAT DO YOU -- HOW DO
27 YOU FEEL ABOUT SHOWING A DRAFT MASTER COMPLAINT TO
28 DEFENDANTS BEFORE YOU SAY "THIS IS OUR MASTER COMPLAINT"?

1 SHOWING TO THEM TO GET COMMENTS FROM THEM.

2 TO GET CONSTRUCTIVE COMMENTS.

3 YES.

4 MR. VANZANDT: WE FIGURE WE'LL GETS LOTS OF
5 COMMENTS FROM DEFENDANTS AT THE DEMURRER STAGE ABOUT OUR
6 COMPLAINT --

7 THE COURT: BUT RATHER THAN HAVING 60 ISSUES, I'D
8 RATHER HAVE 55.

9 MR. VANZANDT: YOUR HONOR, WE WOULD PROPOSE
10 THAT -- I DON'T THINK THAT WOULD BE NECESSARY HERE GIVEN
11 THAT THE MASTER COMPLAINT HERE WILL BE SUBSTANTIALLY
12 SIMILAR TO THE MASTER COMPLAINT THAT DEFENDANTS HAVE
13 ALREADY SEEN IN THE MDL.

14 IT'S NOT GOING TO BE -- WE'RE OBVIOUSLY NOT
15 GOING TO REWRITE THE BOOK; IT'S GOING TO BE A VERY
16 SIMILAR COMPLAINT IN SUBSTANCE REGARDING THE ALLEGATIONS
17 AGAINST EACH DEFENDANT. CERTAINLY DON'T ENVISION ANY
18 MAJOR DIFFERENCES.

19 OBVIOUSLY, THERE ARE SLIGHT DIFFERENCES IN
20 THE LEGAL ISSUES, CALIFORNIA LAW, AS OPPOSED TO THE MDL
21 WHICH CONSIDERS LAW FROM 50 STATES.

22 THE COURT: SO, WHY ARE YOU CONFERRING ABOUT THE
23 FORMAT OF THE SHORT FORM COMPLAINT IF YOU DIDN'T CONFER
24 ABOUT THE FORMAT OF THE MASTER COMPLAINT?

25 MR. VANZANDT: SO, THE FORMAT OF THE SHORT
26 FORM COMPLAINT --

27 THE COURT: THIS IS TO ANYBODY.

28 MR. VANZANDT: I'M SORRY.

1 IT'S MORE OF AN ADMINISTRATIVE PROCEDURE IN
2 TERMS OF A COMPLAINT THAT ALL THE PARTIES CAN AGREE TO TO
3 SERVE THAT ROLE IN ORDER FOR AN INDIVIDUAL PLAINTIFF TO
4 SPECIFY THEIR CLAIMS AGAINST THE DEFENDANTS AS IT RELATES
5 TO THE MASTER COMPLAINT. AND, SO, IT'S MORE -- IT'S MORE
6 ADMINISTRATIVE. AND THERE IS -- IT'S IMPORTANT FOR THE
7 PARTIES TO MEET AND CONFER ENOUGH TO BE A FORMAT THAT THE
8 COURT AGREES ON AS WELL.

9 SO, THAT'S WHY I THINK IT'S IMPORTANT TO
10 MEET AND CONFER ON THE SHORT FORM COMPLAINT, NOT SO MUCH
11 THE MASTER COMPLAINT WHICH IS MORE THE FACTUAL
12 ALLEGATIONS THAT THE PLAINTIFFS WILL BE LODGING AGAINST
13 THE DEFENDANTS.

14 MS. HAZAM: YOUR HONOR, LEXI HAZAM FOR PLAINTIFFS.

15 I WOULD ECHO WHAT MR. VANZANDT SAID.

16 IN ADDITION, A SHORT FORM COMPLAINT
17 REQUIRES AN IMPLEMENTATION ORDER ENTERED BY THE COURT.
18 AND BECAUSE IT INVOLVES A PROPOSED ORDER THAT WOULD BE
19 PRESENTED, THE PARTIES MEET AND CONFER ABOUT THE CONTENT
20 OF IT, UNLIKE AN INITIAL COMPLAINT WHICH IN THE TYPICAL
21 COURSE OF LITIGATION DOES NOT REQUIRE ANY FORM OF ORDER
22 BY THE COURT IN ADVANCE OF ITS FILING.

23 THE COURT: OKAY. I SEE. I DON'T REQUIRE THAT.

24 IF WE AGREE WE'RE GOING TO DO SHORT FORM
25 COMPLAINTS, IT CAN BE FILED AS A SHORT FORM COMPLAINT.
26 AND EVERY CASE DOESN'T REQUIRE AN ORDER.

27 MR. SCHMIDT: YOUR HONOR, IF I MAY. PAUL SCHMIDT
28 FOR META.

1 ON THE MASTER COMPLIANT -- WE HAD OFFERED
2 TO CONFER ON THE MASTER COMPLAINT IN THE MDL, AND
3 PLAINTIFFS DECLINED FOR PROBABLY UNDERSTANDABLE REASONS
4 FROM THEIR PERSPECTIVE.

5 WE ARE OPEN TO CONFER ON IT.

6 WHAT WE WOULD REALLY APPRECIATE ON IT,
7 THOUGH, IS THERE ARE SUBSTANTIAL REDACTION ISSUES, AS I
8 HAVE ALREADY ALLUDED TO, IN CONNECTION WITH THEIR
9 COMPLAINTS. AND THAT'S GOING TO BE AN ONGOING ISSUE IN
10 THE CASE.

11 IF THEY CAN CONFER IN ADVANCE WITH US --
12 REGARDING THE REDACTIONS ISSUES IN ADVANCE OF FILING
13 THEIR COMPLAINT, THAT CAN MAKE A BIG DIFFERENCE JUST
14 LOGISTICALLY IN TERMS OF HOW WE HANDLE THINGS AND NOT
15 HAVE TO SCRAMBLE TO TRY TO FIX THINGS THAT MIGHT SLIP
16 THROUGH OTHERWISE.

17 ON THE SHORT FORM COMPLAINT, WE DO THINK IT
18 IS ESSENTIAL TO CONFER ON THE SHORT FORM COMPLAINTS.

19 SHORT FORM COMPLAINTS ARE, OF COURSE, AN
20 EXCEPTION TO THE NORMAL PLEADING PROCESS, AND THEY END UP
21 SERVING A REALLY IMPORTANT ROLE IN TERMS OF OUR ABILITY
22 TO UNDERSTAND WHAT THE CASES ARE ABOUT, WHAT THE CLAIMS
23 BEING ALLEGED ARE, WHAT SPECIFIC --

24 THE COURT: I AM NOT UNFAMILIAR WITH SHORT FORM
25 COMPLAINTS.

26 MR. SCHMIDT: SO, I THINK WE'RE GOING TO HAVE A
27 PRETTY VIGOROUS DISCUSSION ON THAT IN THE MDL, AND WE
28 WELCOME THAT HERE AS WELL.

1 THE COURT: OKAY. SO --

2 DID YOU HAVE AN IDEA, MR. PANISH?

3 MR. PANISH: MR. CREED WAS TEXTING ME.

4 THE COURT: DID YOU HAVE AN IDEA, MR. CREED --

5 MR. PANISH: YES. YES, I DID.

6 WE'RE WILLING TO MEET AND CONFER ABOUT THE
7 REDACTIONS. WE'RE ALSO OPEN TO MEET AND CONFERRING ABOUT
8 THE SUBSTANCE OF THE COMPLAINT TO AVOID UNNECESSARY
9 CHALLENGES TO THE PLEADING.

10 THE COURT: OKAY. SO, THAT IS, BASICALLY, THE WAY
11 I'D LIKE YOU TO DO IT.

12 SO, WHEN PLAINTIFFS HAVE THEIR MASTER
13 COMPLAINT READY, WHICH PROBABLY ALREADY DO -- AND, YOU
14 KNOW, AGAIN, THIS IS IN THE CONTEXT OF IF THERE IS AN
15 ISSUE THAT'S GOING TO CROP UP ON DEMURRER AND YOU KNOW
16 WHAT IT IS -- COMMUNICATE IT TO THE PLAINTIFFS. IF THEY
17 WANT TO PLEAD AROUND IT, YOU KNOW, I'M -- MAKES ME A
18 HAPPY PERSON. WE KNOW THE BIG ISSUES ARE GOING TO BE
19 THERE.

20 SO, I'M TRYING TO THINK WITH RESPECT TO
21 REDACTIONS I'M GOING TO HAVE TO APPROVE THOSE UNDER
22 OUR -- UNDER OUR RULES OF COURT.

23 SO, PROBABLY THE WAY IT WILL HAPPEN IS THAT
24 PLAINTIFFS WILL FILE IT -- WILL FILE REDACTED FORM AND A
25 FORM UNDER -- A REDACTED FORM AND AN UNREDACTED FORM
26 UNDER SEAL, WHICH IS WHAT'S REQUIRED; AND THEN WITHIN TEN
27 DAYS DEFENDANTS HAVE TO BRING A MOTION TO SAY WHY THOSE
28 REDACTIONS ARE APPROPRIATE UNDER OUR RULES. OKAY?

1 AND DEFENDANTS -- AND PLAINTIFFS CAN OPPOSE
2 IT IF YOU WANT. I MEAN, IT'S A MOTION; RIGHT?

3 SO, WE'LL PROBABLY NEED TO, YEAH, DO IT
4 THAT WAY I THINK.

5 OKAY. SO, I GUESS WHAT I WOULD LIKE IS FOR
6 COUNSEL ON BOTH SIDES TO CONFER ON A SCHEDULE FOR
7 ACCOMPLISHING THESE THINGS.

8 JUST MAKE A NOTE HERE.

9 I'M NOT SURE -- I'M NOT SURE I FEEL I NEED
10 TO APPROVE THE FORMAT FOR THE SHORT FORM COMPLAINT. IF
11 PLAINTIFFS -- I'LL JUST LEAVE THAT AS A QUESTION MARK.
12 IF PLAINTIFFS KNOW WHAT THE DEFENDANTS' PROBLEMS ARE AND
13 THEY WANT TO PROCEED OTHERWISE, I'M NOT SURE I NEED TO
14 RESOLVE THAT.

15 BUT, LET'S GO -- LET'S GO TO TALKING ABOUT
16 THE MOTIONS ON THE -- LET'S GO TO TALKING ABOUT THE
17 PLEADING MOTIONS, AND THEN MAYBE THAT WILL BE A LITTLE
18 BIT CLEARER ABOUT WHAT I THINK -- WHERE I THINK WE SHOULD
19 BE HEADED.

20 LET ME JUST MAKE A NOTE BEFORE I FORGET A
21 COUPLE THINGS.

22 YOU KNOW -- AND IF YOU NEED ANY EXAMPLES
23 OF, YOU KNOW, WHAT A SHORT FORM COMPLAINT WOULD LOOK
24 LIKE -- YOU PROBABLY DON'T -- BUT, WHAT WAS USED IN THE
25 TYNDALL CASE MIGHT BE USEFUL.

26 SO, I TELL YOU WHAT THE TYNDALL CASE IS
27 BECAUSE I'M GOING TO REFER TO IT LATER AGAIN.

28 SO, I HAD A GROUP OF -- IT WAS NOT A

1 COORDINATED CASE. I HAD A GROUP OF ABOUT 780 PLAINTIFFS,
2 WOMEN WHO ATTENDED UNIVERSITY OF SOUTHERN CALIFORNIA
3 BETWEEN 1980 AND I THINK IT WAS 2015. THERE WAS A
4 GYNECOLOGIST THERE WHO ALLEGEDLY WAS ABUSING AND SEXUALLY
5 ASSAULTING THESE WOMEN. AND IT OCCURRED OVER DECADES.
6 HENCE, 780 CASES.

7 THE -- SO, WE DID HAVE A MASTER COMPLAINT
8 IN THAT CASE AND INDIVIDUAL ALLEGATIONS, WHICH,
9 OBVIOUSLY, WERE VERY IMPORTANT IN THOSE CASES.

10 BUT, WE HAD ISSUES OF -- AROUND -- AROUND
11 SEALING DOCUMENTS FOR PRIVACY, ET CETERA.

12 AND, AGAIN, I'LL BRING UP AN ISSUE A LITTLE
13 BIT LATER ABOUT WHERE I THINK THAT CASE MIGHT BE
14 INSTRUCTIVE.

15 SO, BEYOND THE PLEADINGS -- BEYOND THE
16 COMPLAINTS, FOR THE PLEADING CHALLENGES I WOULD LIKE THE
17 PLEADING CHALLENGES TO BE BASED ON A COMPLETE COMPLAINT.
18 THE MASTER COMPLAINT PLUS A SHORT FORM COMPLAINT.

19 AND FOR THAT PURPOSE I WOULD SUGGEST THAT
20 THE PLAINTIFFS PICK OUT ONE, TWO, OR THREE COMPLAINTS AND
21 TELL DEFENDANTS "THESE WOULD BE THE COMPLETE COMPLAINTS
22 THAT WE WOULD PROFFER FOR PURPOSES OF A CHALLENGE ON THE
23 PLEADINGS."

24 BECAUSE THERE IS JUST TOO MANY ISSUES THAT
25 COULD OVERLAP TO -- YOU KNOW, LATER ON WE'RE GOING TO
26 HEAR ABOUT CAUSATION. BUT, CAUSATION RELATES TO, YOU
27 KNOW, THE FIRST AMENDMENT. I CAN'T ENVISION HOW WE COULD
28 GET CAUGHT UP ON IT, BUT I'M AFRAID WE WILL BE CAUGHT UP

1 WITH REPETITIVE ARGUMENTS IF WE DON'T TAKE ON A COMPLETE
2 COMPLAINT.

3 FURTHER, I WOULD PROPOSE THAT WE DO THIS
4 ONE TIME AND THAT WE HAVE ALL OF THE DEFENDANTS'
5 ARGUMENTS IN THE DEMURRER OR MOTION TO STRIKE OR BOTH IF
6 THERE IS A MOTION TO STRIKE.

7 AS TO THE DEFENDANTS' PLEADINGS, I DON'T
8 WANT REPETITIVE PLEADINGS. YOU WOULDN'T BE SURPRISED AT
9 THAT. SO, I WILL WANT YOU -- REQUIRE YOU TO ORGANIZE
10 YOURSELVES SO THAT I GET ONE BRIEF THAT IS A TOTAL BRIEF
11 ON EVERY PART OF THE DEMURRER -- YOU KNOW, EVERY ISSUE
12 YOU'RE RAISING IN THE DEMURRER.

13 AND THEN IF A PARTICULAR DEFENDANT HAS A
14 PARTICULAR ISSUE IN THE WAY THAT EVEN 230 PRESENTS
15 ITSELF, I WOULD ACCEPT -- BUT, YOU KNOW, YOU'RE GOING TO
16 HAVE TO BE JUDICIOUS HERE -- I WOULD ACCEPT A
17 SUPPLEMENTAL BRIEF FROM A PARTY. OKAY?

18 BUT, I DON'T WANT TO HEAR -- I DON'T WANT
19 TO HAVE MULTIPLE BRIEFS WHERE I HEAR ABOUT THE THREE
20 ELEMENTS OF THE TEXT OF 2030(C)(1).

21 NO. NO. NO. NO. WE'RE NOT GOING TO TALK
22 ABOUT THAT THREE TIMES.

23 BUT IF THERE IS A PARTICULAR MANIFESTATION
24 OF A LEGAL ARGUMENT THAT APPLIES IN A DIFFERENT WAY TO A
25 DEFENDANT, I AM OPEN -- OPEN TO SOME SUPPLEMENTATION.

26 FURTHER, WE'RE GOING TO HAVE TO FIGURE
27 OUT -- IF THE PLAINTIFFS PICK THREE COMPLAINTS, THREE
28 TOTAL COMPLAINT, WE'RE GOING TO HAVE TO FIGURE OUT

1 WHETHER THERE ARE ANY DIFFERENT ARGUMENTS THAT YOU HAVE
2 WITH RESPECT TO ANY OF THOSE THREE. HOPEFULLY NOT. THAT
3 WOULD BE GREAT IF THERE WERE NO DIFFERENT ARGUMENTS. BUT
4 IF THERE ARE, YOU'RE GOING TO HAVE TO FIND A WAY TO
5 PRESENT -- TO PRESENT THOSE.

6 I'M FIGURING WITH THREE WE CAN FIGURE OUT
7 IF THERE IS A PROBLEM THAT'S GOING TO CUT ACROSS THE REST
8 OF THE SHORT FORM COMPLAINTS. HOPEFULLY NOT. BUT, IF
9 THERE ARE, HOPEFULLY WE'LL BE ABLE TO FIGURE THAT OUT.

10 OKAY. PROBLEMS WITH THAT GENERAL CONCEPT?

11 MR. CREED: YOUR HONOR, THIS IS JESSE CREED. A
12 QUESTION ON THAT.

13 WE CAN TALK TO DEFENSE BEFORE WE DISCUSS IT
14 HERE; BUT, IN TERMS OF PLAINTIFFS' OPPOSITION, WOULD YOU
15 EXPECT US TO FILE A SINGLE OPPOSITION, OR WOULD YOU WANT
16 IT TO CORRELATE TO EACH DEFENDANTS' BRIEF?

17 THE COURT: GOOD QUESTION.

18 I THINK IT SHOULD CORRELATE TO EACH BRIEF.
19 I THINK THAT WILL BE EASIER. SO, YOU'LL HAVE SOME KIND
20 OF MASTER OPPOSITION, AND THEN YOU'LL HAVE A SEPARATELY
21 FILED OPPOSITION.

22 THAT WAY I CAN STACK THEM UP UNDERNEATH
23 EACH OTHER AND FIND THE ARGUMENTS THAT PERTAIN TO EACH
24 OTHER.

25 MR. SCHMIDT: THE ONLY THING ON THE DEFENSE SIDE,
26 YOUR HONOR -- PAUL SCHMIDT AGAIN FOR META -- IS JUST IF
27 WE COULD HAVE THE OPPORTUNITY -- WHEN THEY PICK THEIR
28 THREE COMPLAINTS, IF WE HAVE CONCERNS ABOUT WHETHER THERE

1 IS SOMETHING REALLY UNUSUAL ABOUT THEM IN TERMS OF THE
2 REPRESENTATIVENESS, TO COME BACK AT THAT POINT.

3 BUT, HOPEFULLY THAT WOULDN'T BE
4 NECESSARY.

5 THE COURT: YOU KNOW, IF THEY'RE UNUSUAL AND
6 THEY'RE UNUSUAL BAD, THEN THAT'S WHAT YOU WANT TO
7 ADDRESS. RIGHT?

8 ONCE WE GET THROUGH THE PROCESS IF THERE
9 ARE SOME OTHER ONES THAN ARE UNUSUAL THAT RAISE ISSUES WE
10 DIDN'T CATCH IN THE FIRST ROUND, THEN WE'LL HAVE TO TALK
11 ABOUT THAT.

12 SO -- AND DOES THREE SOUND RIGHT TO
13 PLAINTIFFS?

14 I MEAN, THERE'S A LOT OF WAYS TO DO THIS.

15 MR. VANZANDT: YES, YOUR HONOR, WE'RE FINE WITH
16 THAT ON THE PLAINTIFFS' SIDE.

17 THE COURT: NOW TIMING. SO, TIMING COULD BE
18 TRICKY.

19 SO, I KNOW JUDGE GONZALES ROGERS HAS A
20 SCHEDULE THAT STARTS APRIL 4. DID SHE ALTER THAT?

21 NO. OKAY. THAT STARTS APRIL 4.

22 BUT, AS I UNDERSTAND IT, SHE'S HOLDING BACK
23 ON THE 230 ISSUE TO WAIT FOR THE SUPREME COURT IN
24 GONZALES VERSUS GOOGLE.

25 SO, THE QUESTION THEN BECOMES WHETHER THERE
26 IS SOME WAY IN WHICH WE WANT TO CATCH UP OUR BRIEFING
27 WITH THE FEDERAL COURT.

28 JUDGE GONZALES ROGERS IS OPEN TO SITTING

1 TOGETHER, HERSELF AND MYSELF, TO HEAR THESE MOTIONS OR A
2 MAYBE JUST TO HEAR THE SECTION 230 MOTION. I AM OPEN TO
3 IT; BUT, I DON'T WANT TO FORCE IT ON PEOPLE.

4 SO, WHEN IT HAS BEEN DONE IN THE PAST IN
5 MDL AND COORDINATED CASES, THE STATE AND FEDERAL JUDGES
6 HAVE SAT IN ONE LOCATION, HAVE HEARD ARGUMENT FROM BOTH
7 SIDES, AND THEN HAVE DECIDED INDEPENDENTLY.

8 SO, YOU DON'T GET SOME KIND OF EN BANC OF,
9 YOU KNOW, STATE AND FEDERAL COURT JUDGES SHARING THEIR
10 THINKING WITH EACH OTHER.

11 I HAVE SOME -- I WOULD LOVE TO SIT WITH
12 JUDGE GONZALES ROGERS. I THINK SHE'S A WONDERFUL
13 INTELLECT. AND LIKE ME, SHE WAS A STATE COURT JUDGE TOO.
14 SO, SHE KNOWS A LOT ABOUT STATE COURT PROCEDURE.

15 BUT, WE HAVE TO BE REALISTIC THAT A
16 CALIFORNIA DEMURRER IS NOT IQBAL AND TWOMLY. IT'S JUST
17 NOT. IT'S DIFFERENT FROM MOTION TO DISMISS.

18 SO -- YOU KNOW. BUT, THAT MAYBE JUST SAYS
19 THEY HAVE TO BE DECIDED INDIVIDUALLY.

20 BUT, YOU KNOW, THE STANDARDS MIGHT TURN OUT
21 TO BE SORT OF DIFFERENT.

22 SO, I -- I'LL JUST THROW THAT OUT THERE FOR
23 YOU.

24 AS I SAY, I WOULD LOVE TO SHARE IT WITH
25 HER; BUT I'M NOT REALLY SURE IT MAKES SENSE HERE.

26 MR. VANZANDT: YOUR HONOR, THAT'S SOMETHING ON THE
27 PLAINTIFFS' SIDE IF IT'S OKAY WITH YOU WE'D LIKE TO
28 CONSIDER AND DISCUSS.

1 ONE INITIAL THOUGHT WOULD BE THE CHALLENGE
2 WITH THE SCHEDULE GIVEN THAT THE MDL IS AHEAD AND THEY
3 HAVE THE BRIEFING SCHEDULE IN PLACE.

4 AND I KNOW HERE THE PARTIES HAVE -- AT
5 LEAST IN MEET AND CONFERS HAVE DISCUSSED AND AGREED UPON
6 PROPOSING A SCHEDULE AND ORDER HERE THAT WOULD PUT THE
7 DEMURRER BRIEFING AFTER THE GONZALES SUPREME COURT
8 DECISION.

9 SO, THAT WOULD BE SOMETHING WE'D WANT TO
10 CONSIDER.

11 THE COURT: I'D BE HAPPY TO GO BEFORE THE GONZALES
12 SUPREME COURT DECISION, BY THE WAY; BUT I DON'T THINK
13 ANYBODY IS ASKING ME TO DO THAT, SO, THAT'S OKAY.

14 MR. PANISH: THAT WOULD VIOLATE THE PREMISE OF
15 JUDICIAL EFFICIENCY HERE IN --

16 THE COURT: DEPENDS ON IF THEY FOLLOW ME OR NOT.

17 MR. PANISH: I WOULD EXPECT THEM TO.

18 THE COURT: WELL, YOU DON'T KNOW IF YOU'D WANT
19 THEM TO OR NOT.

20 IN ANY EVENT, THAT'S A BRIDGE TOO FAR, WE
21 WON'T DO THAT.

22 SO, I'LL LET YOU ALL THINK ABOUT THAT.

23 BUT, THEN YOU HAVE TO THINK ABOUT, OKAY,
24 ARE YOU GOING TO GET A FEDERAL COURT DECISION BEFORE YOU
25 GET A STATE COURT DECISION SUCH THAT I'LL HAVE TO
26 POTENTIALLY DISTINGUISH A FEDERAL COURT DECISION?

27 SO, IT'S OKAY. YOU KNOW, IT'S ALL GOOD.

28 BUT, I DON'T WANT TO FALL TOO FAR BEHIND

1 BECAUSE WE SHOULD KEEP OUR DISCOVERY -- EVERYBODY WANTS
2 THE DISCOVERY TO BE CONSISTENT WITH IN MANY WAYS. RIGHT?

3 SO, I WILL LEAVE IT TO YOU THEN TO THINK
4 ABOUT THE SCHEDULING. ALL RIGHT?

5 BUT, THAT'S THE FORMAT THAT I WOULD LIKE.

6 OKAY. LET ME TALK A LITTLE BIT ABOUT EARLY
7 CASE VETTING, WHICH IS RAISED IN -- BY THE DEFENDANTS AT
8 PAGES 17 TO 18 OF YOUR REPORT.

9 SO, I'M VERY FAMILIAR WITH THIS ISSUE. I
10 SERVE ON THIS -- I'M THE ONLY STATE COURT JUDGE ON THE
11 STANDING COMMITTEE ON FEDERAL RULES.

12 THAT COMMITTEE HAS BEEN CONSIDERING WHETHER
13 THERE SHOULD BE SPECIFIC RULES FOR MDL PROCEEDINGS. AND
14 ONE OF THE ISSUES HAS BEEN WHETHER THERE SHOULD BE SOME
15 SORT OF RULE IN THE FEDERAL RULES ABOUT EARLY VETTING OF
16 CASES AND SO FORTH. WHICH I'M NOT REVEALING ANYTHING
17 THAT'S NOT IN THE PUBLIC -- IN THE PUBLIC AGENDAS. BUT,
18 I THINK THEY HAVE DETERMINED NOT TO DO THAT ALTHOUGH
19 MAYBE TO SAY THAT THERE SHOULD BE THE FOCUS EARLY ON OF
20 GETTING BASIC INFORMATION ABOUT THE PLAINTIFFS' CASES.

21 THIS IS REALLY DIFFERENT FROM A
22 PRESCRIPTION DRUG CASE IN TERMS OF, YOU KNOW, IF YOU
23 THINK ABOUT THE SPECTRUM BETWEEN A MINI PLAINTIFF FACT
24 SHEET EARLY ALL THE WAY TO SOMETHING LIKE A LONE PINE
25 ORDER THAT DOESN'T REQUIRE A SPECIFIC -- A SPECIFIC
26 DOCTOR OPINION TO A LONE PINE ORDER, WHICH I VIEW AS
27 REQUIRING A DOCTOR'S OPINION. THIS IS REALLY DIFFERENT.

28 WHAT DO YOU ALL HAVE IN MIND?

1 MR. SCHMIDT: THIS IS PAUL SCHMIDT AGAIN FOR META.

2 THIS IS SOMETHING WE ARE ACTIVELY
3 CONFERRING ABOUT IN THE FEDERAL MDL.

4 ONE THING JUDGE GONZALES ROGERS HAS
5 SUGGESTED THAT PROBABLY TRACKS MORE WITH THE FEDERAL MDL
6 THAN WITH THE JCCP, ALTHOUGH IT COULD APPLY HERE, IS
7 HAVING EVERY PLAINTIFF HAVE A CALIFORNIA BARRED LAWYER ON
8 THEIR PLEADINGS SO THAT -- I DON'T WANT TO SPEAK FOR THE
9 JUDGES -- SO THERE IS ACCOUNTABILITY IN TERMS OF PROPER
10 DILIGENCES DONE AHEAD OF TIME.

11 FROM OUR PERSPECTIVE, I THINK YOUR HONOR'S
12 STATEMENT ABOUT THIS BEING VERY DIFFERENT THAN THE KIND
13 OF PHARMA JCCP'S A LOT OF US HAVE BEEN INVOLVED IN IS
14 VERY APT.

15 AND ONE OF THE DIFFERENCES IS UBIQUITY OF
16 SOCIAL MEDIA AND THE FACT THAT INJURIES HERE ARE VERY
17 INTANGIBLE. SOME OF THEM AT LEAST. AND THAT GIVES RISE
18 TO A POTENTIAL YOU ARE GOING TO HAVE VERY SERIOUS
19 CLAIMS --

20 THE COURT: YOU DON'T NEED AN EXPERT FOR ANY OF
21 THESE ISSUES --

22 MR. SCHMIDT: RIGHT.

23 BUT THEN YOU MIGHT HAVE CLAIMS THAT DON'T
24 FIT WITHIN THE MDL WHERE THERE SHOULD BE SOME KIND OF
25 MEANS TO DETERMINE WHAT THOSE ARE AND TAKE ACTION ON
26 THOSE.

27 SO, WHAT WE HAVE BEEN LOOKING AT IN THE
28 CONTEXT OF THE MDL, AND I WOULD URGE US TO LOOK AT HERE

1 AND WORK WITH THE PLAINTIFFS HERE, IS AN EARLY FACT SHEET
2 PROCESS THAT GIVES US THEIR INFORMATION ABOUT WHAT'S
3 BEING ALLEGED AND POSSIBLY CONSIDERING OTHER FILING
4 REQUIREMENTS THAT WE'RE IN THE PROCESS OF TALKING WITH
5 PLAINTIFF'S COUNSEL ABOUT IN THE MDL AND ARE GOING TO
6 PRESENT TO JUDGE GONZALES ROGERS.

7 THEY WOULD INCLUDE THE CALIFORNIA ATTORNEY
8 REQUIREMENT, BUT POTENTIALLY OTHER BASIC DILIGENCE
9 REQUIREMENTS THAT ARE CONSISTENT WITH DILIGENCE THAT
10 SHOULD BE DONE IN BRINGING ANY KIND OF CASE.

11 THE COURT: OKAY. I DON'T SEE ANYTHING EITHER
12 THAT COULD BE DONE, FRANKLY, EARLY ON. THESE COMPLAINTS
13 ARE MORE SPECIFIC THAN MOST OF THE COMPLAINTS I SEE. WAY
14 MORE SPECIFIC. MOST OF THEM ARE WAY MORE SPECIFIC THAN
15 THE COMPLAINTS I SEE.

16 SO, OKAY.

17 MR. SCHMIDT: YEAH, THE CONCERN WE HAVE IS WE'RE
18 GOING TO GET A VERY SPECIFIC MASTER COMPLAINT -- AND
19 THAT'S WHAT WE SEE IN THE MDL WITH ALL KINDS OF
20 ALLEGATIONS AGAINST THE DEFENDANTS IN THE MASTER
21 COMPLAINT.

22 AT LEAST THE SHORT FORM COMPLAINT WE HAVE
23 RECEIVED SO FAR IN THE MDL IS PRETTY GENERAL WHERE IT'S
24 HARD TO DRILL DOWN ON WHAT ARE THE SERIOUS CLAIMS, WHAT
25 ARE THE DOCUMENTED CLAIMS, WHAT ARE THE CLAIMS THAT MIGHT
26 NOT HAVE DOCUMENTATION.

27 AND WE SHARE THE CONCERN WE UNDERSTOOD
28 JUDGE GONZALES ROGERS TO EXPRESS THAT THERE SHOULD BE

1 SOME WAY TO MAKE MAKE SURE WE'RE FOCUSING ON THE CASES WE
2 SHOULD BE FOCUSING ON AND NOT SWEEPING IN A LOT OF OTHER
3 CASES.

4 AND WE WILL CONTINUE CONFERRING WITH THE
5 PLAINTIFFS ABOUT IT.

6 BUT, THAT'S REALLY OUR GOAL, IS TO GIVE THE
7 COURT AND THE PARTIES A WAY TO ADDRESS THAT.

8 THE COURT: I'M NOT SEEING A NEED HERE FOR
9 ANYTHING EXTRAORDINARY. SO, I'M OPEN TO LISTENING TO
10 YOU.

11 AND WE'LL TALK ABOUT PLAINTIFF FACT SHEETS
12 IN A MINUTE.

13 BUT --

14 MS. SCHMIDT: THANK YOU --

15 THE COURT: -- I'M NOT SEEING ANYTHING REQUIRING
16 SOMETHING OTHER THAN, YOU KNOW, PLAINTIFF FACT SHEET
17 PROCESS.

18 INJUNCTIVE RELIEF. I READ WHAT YOU SAID.
19 ALL I'LL SAY IS THE EARLIER WE HAVE A PRELIMINARY REQUEST
20 FOR INJUNCTIVE RELIEF THE BETTER.

21 OKAY. LET'S TALK ABOUT DISCOVERY.

22 SO, ALL OF THE DOCUMENTS IN DISCOVERY
23 PRODUCED BY DEFENDANTS IN THE MDL SHOULD BE AVAILABLE TO
24 THE PLAINTIFFS HERE. HOPEFULLY. AND THE PLAINTIFFS HERE
25 WILL BE PRECLUDED FROM DUPLICATING DISCOVERY THAT'S DONE
26 IN THE MDL.

27 I AM FINE WITH CONTINUING THE DISCOVERY
28 STAY UNTIL THE PLEADING CHALLENGES ARE COMPLETED EXCEPT

1 AS TO WHAT JUDGE GONZALES ROGERS HAS ORDERED.

2 AND I'LL TAKE UP THE ISSUE OF DOCUMENT
3 PRESERVATION SEPARATELY. THAT'S A DIFFERENT DISCUSSION.

4 LOOKING AHEAD, I WOULD EXPECT TO COORDINATE
5 WITH JUDGE GONZALES ROGERS' ORDERS ON DISCOVERY, BUT
6 OBVIOUSLY -- WELL, NOT OBVIOUSLY.

7 BUT, FROM THE WAY I AM LOOKING AT IT,
8 DISCOVERY INVOLVING THE INDIVIDUAL PLAINTIFFS THAT ARE
9 HERE IS A DIFFERENT ISSUE. AND I MIGHT COORDINATE THERE
10 AS WELL. BUT, WE MIGHT ALSO GO A DIFFERENT DIRECTION.

11 BUT NOT INCLINED TO LOOK KINDLY ON
12 DUPLICATIVE DISCOVERY FOR -- WITH RESPECT TO THE
13 DEFENDANTS.

14 SO, THIS IS LOOKING AHEAD AND MAYBE TOO
15 SOON TO TALK ABOUT IT, BUT YOU TALKED ABOUT IT AND I
16 THINK IT'S GOOD TO GIVE YOU WHAT I THINK SHOULD BE THE
17 PATH FORWARD.

18 SO, THE PLAINTIFF FACT SHEET PROCESS AND
19 THIS DISAGREEMENT AS TO WHETHER THE DEFENDANTS SHOULD
20 FIRST PRODUCE THE INFORMATION THAT THE DEFENDANTS HAVE
21 WITH REGARD TO THE INDIVIDUAL PLAINTIFFS ACTIVITY ONLINE
22 TO THE EXTENT THAT YOU HAVE IT, THIS IS WHERE THE TYNDALL
23 CASE COMES BACK IN.

24 AND WHAT WE DID IN THE TYNDALL CASE WAS --
25 THE WOMEN PLAINTIFFS IN THAT CASE OBVIOUSLY HAD MEDICAL
26 RECORDS WITH USC. AND USC -- THEY WERE ENTITLED TO THOSE
27 MEDICAL RECORDS; RIGHT? AND THAT -- I'LL JUST SAY THAT
28 ENTITLEMENT, IN A SENSE, WAS STRONGER THAN THE

1 ENTITLEMENT HERE OF THESE PLAINTIFFS ABOUT THEMSELVES
2 THAT THESE PLAINTIFFS HAVE VIS-A-VIS THESE DEFENDANTS.

3 NEVERTHELESS, BOTH SIDES AGREED, AND IT
4 WORKED OUT EXTREMELY WELL, TO HAVE THOSE DOCUMENTS THAT
5 SHOWED THE DOCTORS' VISITS, ET CETERA, THE MEDICAL
6 RECORDS, PRODUCED TO THE PLAINTIFFS BEFORE THEY ANSWERED
7 THE PLAINTIFF FACT SHEET.

8 AND THE REASON WAS BECAUSE IF YOU THINK OF,
9 YOU KNOW, A COLLEGE STUDENT, AND NOW IT'S A NUMBER OF
10 YEARS LATER, HOW MUCH ARE THEY GOING TO REMEMBER ABOUT,
11 YOU KNOW, HOW MANY VISITS, WAS IT -- DID YOU GO TO
12 ANOTHER DOCTOR; YOU KNOW, WHAT -- AND HOW MANY -- HOW
13 MANY MONTHS APART, WHAT DID YOU CONSULT FOR? ALL THOSE
14 THINGS LIKE THAT.

15 AND THE CONCERN WAS THAT IF YOU DO THE
16 PLAINTIFF FACT SHEET PROCESS BASED STRICTLY ON MEMORY,
17 PARTICULARLY AFTER A TIME PERIOD HAS PASSED -- AND I'M
18 GOING TO SAY HERE PARTICULARLY IF YOU'RE TRYING TO ASK
19 THE MINORS WHO ARE PLAINTIFFS OR DECEDENTS HERE ABOUT
20 WHAT THEY REMEMBER, YOU'RE -- IT'S GOING TO BE MUCH MORE
21 OF A GUESS, OF A BLANK SLATE BECAUSE YOU CAN'T RECALL
22 SPECIFICALLY.

23 YOU CANNOT -- DEFENDANTS CANNOT AVOID THE
24 FACT THAT AT SOME POINT THE -- I THINK YOU CAN'T AVOID
25 THE FACT THAT AT SOME POINT THERE ARE RECORDS THAT YOU
26 HAVE ABOUT THEIR ACTIVITY IS GOING TO BE PRODUCED TO
27 THEM. AND WHEN THAT HAPPENS, THEIR RECOLLECTION IS GOING
28 TO BE REFRESHED.

1 AND, SO, THEN, THOSE PLAINTIFF -- IF YOU
2 HAVE GONE FIRST ROUND PLAINTIFF FACT SHEETS BEFORE THOSE
3 DOCUMENTS GET TO THEM, THOSE FIRST ROUND PLAINTIFF FACT
4 SHEETS ARE GOING TO BE KIND OF USELESS BECAUSE YOU WON'T
5 GET THEIR BEST TESTIMONY OF WHAT THEY RECALLED AFTER THEY
6 SAW THE DOCUMENTS.

7 AND, SO, YEAH, ALMOST WOULD -- FOR THE
8 DEFENDANTS TO GET ANYTHING THAT WAS RELIABLE TO TAKE INTO
9 A DEPOSITION OR TO SUBSTITUTE FOR A DEPOSITION IF YOU'RE
10 NOT GOING TO DEPOSE EVERY SINGLE ONE OF THE PLAINTIFFS
11 ULTIMATELY, YOU GET -- YOU GET SOMETHING UNRELIABLE.

12 SO, IT WORKED REALLY WELL IN THE TYNDALL
13 CASE.

14 I WOULD ANTICIPATE THAT THERE WOULD BE THAT
15 PROBLEM HERE IN TERMS OF REFRESHED RECOLLECTION IF YOU
16 WILL. AND, SO, I THINK IT OUGHT TO BE CONSIDERED.

17 I CAN UNDERSTAND WHY DEFENDANTS WOULD
18 OBJECT TO THIS.

19 HERE'S WHAT I SUGGEST. I SUGGEST THAT WE
20 PLAN -- WE DON'T HAVE TO DO THIS NOW, RIGHT, BECAUSE
21 WE'RE NOT DOING DISCOVERY NOW.

22 BUT, I'D SUGGEST AT AN APPROPRIATE MOMENT
23 WE PLAN TO HAVE SOME KIND OF A MOTION OR BRIEFING THAT I
24 CAN CONSIDER THIS MATTER IN DEPTH. BECAUSE IT'S AN
25 IMPORTANT ONE. AND THEN I'LL DECIDE.

26 SO, WE WOULD LOOK AHEAD TO MAYBE -- IT'S
27 PROBABLY A MOTION TO COMPEL FOR THE PLAINTIFFS AND THEN
28 OPPOSITION. AND THEN I'LL DECIDE. BUT, I THINK IT'S --

1 I THINK IT'S A VERY INTERESTING QUESTION.

2 IS THAT ACCEPTABLE?

3 MR. PANISH: YES.

4 MR. SCHMIDT: YES, YOUR HONOR, WE'D BE -- PAUL
5 SCHMIDT AGAIN FOR META.

6 WE ARE GRATEFUL FOR THE OPPORTUNITY FOR
7 BRIEFING SEEING THE WISDOM OF THAT IN A CASE LIKE YOUR
8 HONOR DESCRIBES.

9 WHAT'S DIFFERENT HERE IS, I THINK, TWO
10 THINGS.

11 ONE, THE BURDEN IS VERY DIFFERENT IN TERMS
12 OF THE VOLUME OF MATERIAL.

13 BUT, THE SECOND THING THAT'S VERY DIFFERENT
14 IS BASIC ACCESS.

15 THERE IS SOME -- AT LEAST FOR NON-DECEDENT
16 PLAINTIFFS, THERE IS SOME LEVEL OF ACCESS THE PLAINTIFFS
17 HAVE TO THIS DATA THAT THEY CAN GET THEMSELVES, INCLUDING
18 TOOLS WE PROVIDE FOR THEM TO BE ABLE TO ACCESS SOME OF
19 THEIR OWN DATA.

20 AND WE WILL BE ABLE TO BRIEF THAT IN TERMS
21 OF ADDRESSING WHAT WOULD BE A APPROPRIATE WAY TO SORT
22 THROUGH THAT.

23 THE COURT: SO, HERE'S WHAT I WOULD SUGGEST THEN.

24 YOU HAD SUGGESTED GOING AHEAD AND STARING
25 THE MEET AND CONFER ABOUT THE FORM OF PLAINTIFF FACT
26 SHEETS. AND I WOULD AGREE WITH THAT. YOU HAVE GOT A LOT
27 TO DO. BUT, I THINK IT MAKES SENSE TO START THAT
28 PROCESS.

1 AS PART OF THAT -- SO, THIS WOULD BE ABOUT,
2 YOU KNOW, WHAT THE QUESTIONS ARE GOING TO BE TO THE
3 PLAINTIFFS, WHAT THEY ARE GOING TO RESPOND TO AND WHAT
4 THAT FORMAT IS GOING TO LOOK LIKE AND WHAT'S THE SCOPE OF
5 THE MEDICAL RECORDS AND ALL OF THOSE THING. OKAY?

6 AT THE SAME TIME AS YOU ARE TALKING ABOUT
7 THAT, I WOULD SUGGEST THAT PLAINTIFFS PROVIDE TO
8 DEFENDANTS A LIST OF WHAT YOU WOULD WANT TO BE PRODUCED
9 ABOUT THE PLAINTIFFS' ACCOUNTS PRIOR TO THEIR FILLING OUT
10 THE PLAINTIFF FACT SHEETS WITH THE IDEA IN MIND THAT IN A
11 SENSE MAYBE THE MORE NARROW YOU MAKE THAT REQUEST,
12 KNOWING THAT THIS ISN'T THE LAST REQUEST YOU CAN MAKE FOR
13 INFORMATION, MAYBE YOU MAKE THAT A LITTLE NARROWER AT THE
14 FIRST BITE AND IT BECOMES A LITTLE MORE REASONABLE.

15 I DON'T KNOW. I'M JUST SAYING.

16 BUT, I THINK START -- THAT DOESN'T REALLY
17 BECOME A DISCUSSION BECAUSE DEFENDANTS AREN'T GOING TO
18 AGREE TO PRODUCE ANYTHING, WE'RE GOING TO HAVE A MOTION
19 ABOUT THAT.

20 BUT, WHEN I HEAR A MOTION, I'M GOING TO
21 WANT TO KNOW WHAT YOU WANT TO HAVE PRODUCED, AND YOU
22 MIGHT SHARE A DISCUSSION WITH THAT. OKAY?

23 SO, FOR THOSE OF YOU WHO HAVE NOT BEEN IN
24 MY COURT BEFORE OR IN THE COMPLEX COURTS BEFORE, WE DO
25 NOT HAVE SPECIAL MASTERS. SINCE THE YEAR 2000 WE HAVE
26 MADE IT A POLICY NOT TO HAVE SPECIAL MASTERS.

27 I MEAN, I HAD ONE ONCE ON A -- ON A
28 PRIVILEGE ISSUE THAT JUST REQUIRED A HUGE AMOUNT OF WORK.

1 BUT, I HAVE DONE A LOT OF PRIVILEGE ISSUES
2 ON MY OWN TOO.

3 SO, YOU GET ME. YOU SEE ME? THIS IS WHAT
4 YOU GET. OKAY.

5 AND I CLOSE -- I CLOSELY SUPERVISE
6 DISCOVERY. IT'S -- AND WE'LL SEE HOW THINGS GO. BUT, IT
7 MAY NOT -- IN MANY OF MY CASES WE DON'T JUST HAVE, OKAY,
8 THE PLAINTIFFS WILL PROCEED OR -- LET'S PUT IT -- THE
9 DEFENDANTS WILL PROCEED BY PROPOUNDING DISCOVERY TO THE
10 PLAINTIFFS, AND THEN THE PLAINTIFFS WILL OBJECT, AND THEN
11 WE'LL START WITH OUR MEET AND CONFER; SOMETIMES IT'S A
12 NEGOTIATED PROCESS THAT IS SORT OF INDEPENDENT OF THE
13 RULES OF CIVIL PROCEDURE IF YOU WILL.

14 BUT, WE'LL SEE, AS WE GO ALONG, WHAT MAKES
15 SENSE.

16 BUT, YOU CAN SEE WE'RE ALREADY KIND OF
17 SHAPING THE DISCOVERY INFORMALLY. OKAY?

18 AND, ULTIMATELY, DISCOVERY DISPUTES HAVE TO
19 BE DISCUSSED -- ALL MOTIONS -- ACTUALLY, DISCOVERY
20 MOTIONS AND ALL MOTIONS HAVE TO BE DISCUSSED WITH ME
21 BEFORE THEY'RE BROUGHT. AND I WILL SEE IF I CAN -- I
22 CALL IT TRY TO MEDIATE A SOLUTION TO THE PROBLEM. OKAY?

23 I WANT TO SAY A WORD ABOUT TRIAL SETTING TO
24 GIVE YOU MY PERSPECTIVE. AND YOU MAY CONVINCE ME
25 OTHERWISE. THIS IS JUST -- YOU NEEDN'T TALK ABOUT IT A
26 LOT; BUT, THIS IS MY GOING-IN THINKING ABOUT THIS CASE.

27 AND -- BECAUSE I HAVE -- I HAVE DEALT WITH
28 A LOT OF MASS LITIGATION. AND A LOT OF THEM WE HAVE KIND

1 OF GONE SLOW ON TRIAL SETTING SO THAT WE MAKE SURE THAT
2 THE TABLE IS SET AND THAT WE HAVE, YOU KNOW, REALLY
3 REPRESENTATIVE CASES AND SO FORTH.

4 I REALLY -- MY INITIAL INSTINCT IS I REALLY
5 WANT TO GET TO TRIAL IN THESE CASES. AND I DON'T THINK
6 THAT THE MATTERS HERE AT STAKE ARE GOING TO BE HELPED BY
7 DELAY. AND I MIGHT PROPOSE LATER THAT COUNSEL THINK
8 ABOUT A WAY OF SELECTING EARLY CASES EVEN BEFORE THE
9 PLAINTIFF FACT SHEET PROCESS IS DONE.

10 I WOULD NEVER START A TRIAL BEFORE THE
11 PLAINTIFF FACT SHEET PROCESS IS DONE BECAUSE THAT'S NOT
12 SMART FOR A VARIETY OF REASONS HAVING TO DO WITH
13 POTENTIAL CONSENTUAL AGREEMENT. BUT, I COULD SEE IN THIS
14 CASE PICKING OUT CASES FOR DEVELOPMENT AND LINING THEM UP
15 FOR TRIAL BEFORE THE PLAINTIFF FACT SHEETS ARE COMPLETE.

16 AND PART OF THAT IS BECAUSE WE HAVE SOME
17 COMPLAINTS THAT ARE VERY DETAILED.

18 EVERYBODY IS SO QUITE ON THAT.

19 BUT, JUST -- JUST MY IDEA. I ALWAYS LISTEN
20 TO EVERYBODY BEFORE WE DO ANYTHING. OKAY?

21 AND THEN I JUST WANT TO PUT A LITTLE
22 FOOTNOTE HERE.

23 SOME OF THE -- SOME OF THE COMPLAINTS HAVE
24 UCL CLAIMS AND INJUNCTIVE RELIEF. AND THOSE ARE TRIED TO
25 THE COURT. SO, FOOTNOTE.

26 OKAY. LET'S TALK ABOUT PRESERVATION OF
27 EVIDENCE A MINUTE.

28 SO, I DEFINITELY AGREE THAT THAT ISSUE

1 OUGHT TO BE DEALT WITH IN TANDEM WITH THE MDL.

2 I ALSO WOULD SAY, FOR WHAT IT'S WORTH, THAT
3 I AGREE THAT IT MAKES VERY GOOD SENSE FOR EACH PLAINTIFF
4 TO PRODUCE A -- WHAT YOU'RE CALLING A PROFILE FORM AS
5 EARLY AS POSSIBLE BECAUSE THAT PUTS THE DEFENDANTS ON
6 NOTICE AS TO WHOSE RECORDS ARE RELEVANT, TO THE EXTENT
7 YOU ARE ABLE, AND OTHER INFORMATION THAT YOU HAVE AS TO
8 RELEVANT ACCOUNTS THAT YOU CAN IDENTIFY.

9 SO, THAT MAKES A LOT OF SENSE TO ME.

10 I AM HAPPY TO HELP. BUT, IF YOU'RE MOVING
11 ALONG ON THAT IN THE FEDERAL CASE AND IMPORT THAT HERE,
12 JUST KEEP ME APPRISED OBVIOUSLY.

13 AND I DO THINK THIS IS SOMETHING THAT HAS
14 TO BE HANDLED VERY EARLY IN THE LITIGATION.

15 SEEMS TO ME THAT THERE WOULD HAVE TO BE A
16 PROTECTIVE ORDER IN PLACE BEFORE THE PLAINTIFFS ARE
17 PROVIDING THESE PROFILE FORMS.

18 SO, THAT SUGGESTS THAT AS WE'RE DOING THE
19 CRITICAL PATH TO THIS GET THAT PROTECTIVE ORDER DONE
20 BECAUSE, YOU KNOW, THERE IS SOME OTHER THINGS THAT BEAR
21 UPON IT.

22 I WAS -- NEW TO ME WAS THE DEFENDANTS'
23 MENTION OF THIS 18 USC 22568 AND CHILD SEX ABUSE MATERIAL
24 AND THE POTENTIAL NEED AFTER IDENTIFYING THE MATERIAL TO
25 DESTROY IT WITHIN A PARTICULAR TIME.

26 I -- I WOULD RECOMMEND THAT PLAINTIFFS
27 BRING A MOTION FOR AN ORDER FROM THIS COURT THAT SAYS IF
28 MATERIAL IS RELEVANT TO LITIGATION YOU DON'T DESTROY IT.

1 THAT'S NOT THE FIRST TIME I HAVE SEEN ISSUE
2 LIKE THAT. YOU HAVE STATUTES -- STATE STATUTES, FEDERAL
3 STATUTES -- THAT SEEM TO SAY THAT, YOU KNOW, MATERIAL HAS
4 TO BE KEPT CONFIDENTIAL AND CAN NEVER BE LET OUT AND SO
5 FORTH AND SO ON. AND THEN WHEN YOU FIND OUT THAT IT'S
6 RELEVANT TO LITIGATION AND HAS TO BE PRODUCED TO THE
7 OTHER SIDE, YOU GOT TO MAKE AN EXCEPTION TO THAT. RIGHT?

8 SO, THIS SEEMS TO ME TO FALL IN THE SAME
9 CONSENTUAL CATEGORY.

10 IF I WERE DEFENDANTS, I'D WANT AN ORDER.

11 SO, PLAINTIFFS, BRING A MOTION.

12 MR. VANZANDT: YOUR HONOR, JOSEPH VANZANDT FOR THE
13 PLAINTIFFS.

14 I CERTAINLY DO NOT CONSIDER MYSELF A C-SAM
15 EXPERT; I KNOW WE HAVE SOME ON OUR TEAM THAT ARE. AND I
16 THINK OTHERS MAY HAVE DIFFERENT INTERPRETATIONS IN TERMS
17 OF WHAT THOSE REQUIREMENTS ARE. SO, THAT'S SOMETHING
18 WE'D LIKE TO MEET AND CONFER ON, CERTAINLY WOULD INTEND
19 TO SUBMIT AN ORDER TO THE COURT ON THAT.

20 THE COURT: OKAY.

21 WELL, BUT I THINK IT OUGHT TO BE A -- I
22 THINK IT OUGHT TO BE A MOTION.

23 WELL, IF DEFENDANTS ARE GOOD WITH A
24 STIPULATED ORDER, THAT'S ABSOLUTELY GOOD WITH ME.

25 MR. VANZANDT: OR MOTION. I'M SORRY IF I SAID
26 ORDER --

27 THE COURT: NO. BUT, IF DEFENDANTS FEEL LIKE YOU
28 NEED TO SAY SOMETHING BEFORE YOU'RE ORDERED TO DO

1 SOMETHING, I GET THAT TOO. I TOTALLY GET THAT. SO --
2 BUT, LET'S TAKE CARE OF THAT. I DON'T WANT ON MY WATCH
3 STUFF BEING DESTROYED THAT'S RELEVANT TO LITIGATION. SO,
4 GET ON WITH IT.

5 AND WHEN I SAY THAT, I MEAN I THINK WHERE
6 WE'RE GOING TO BE HEADED WITH THIS -- AND YOU KNOW, MAYBE
7 WE HAVE GOT NO MORE THAN A HALF-HOUR TO GO.

8 WHERE WE'RE GOING TO GO WITH ALL OF THIS IS
9 WE'RE PROBABLY GOING TO RECONVENE PROBABLY NEXT WEEK WITH
10 A PROPOSED ORDER OR WITH A -- WITH A SCHEDULED
11 DISCUSSION. OKAY? WE'LL SEE. I'LL HEAR YOU ON WHAT YOU
12 THINK WOULD BE THE BEST NEXT STEP TO KEEP US ORGANIZED.

13 ESI STIP. JUST GO AHEAD AND DO THAT IN
14 CONJUNCTION WITH THE MDL. I'M NOT ESI GURU SO -- AS FAR
15 AS THOSE THINGS ARE CONCERNED.

16 ONE OTHER NEW ISSUE. I WOULD LIKE TO
17 SUGGEST THAT WE HAVE A SCIENCE DAY. AND THAT'S SOMETHING
18 IF JUDGE GONZALES ROGERS IS INTERESTED IN HAVING --
19 SPENDING TIME ON IT MIGHT BE SOMETHING THAT WE COULD DO
20 TOGETHER.

21 AND THE SCIENCE DAY, TO ME, WOULD EXPLAIN
22 FROM THE USER STANDPOINT HOW THE MEDIA APPS AT ISSUE
23 WORK. LET ME TELL YOU WHY.

24 I AM A JUDGE. OUR RULES OF ETHICAL CONDUCT
25 STRONGLY DISCOURAGE JUDGES FROM HAVING SOCIAL MEDIA. AND
26 I HAVE NONE, ZERO, ZILCH. I HAVE MAYBE TWO TIMES SEEN A
27 FACEBOOK PAGE. OKAY?

28 WHY DON'T I KNOW FROM MY CHILDREN?

1 WHEN MY OLDER DAUGHTER -- MY DAUGHTERS ARE
2 CLOSE IN TIME.

3 WHEN MY OLDER DAUGHTER WAS COLLEGE SHE
4 CALLED ME AND SAID, "YOU KNOW, THERE IS THIS NEW THING
5 AND I DON'T KNOW WHETHER I SHOULD SIGN UP; IT'S THIS
6 THING CALLED FACEBOOK, IT SEEMS LIKE IT WOULD BE PRETTY
7 SAFE BECAUSE IT'S ONLY THE IVY LEAGUE SCHOOLS." OKAY.
8 THAT'S HOW FAR BACK IT GOES. SO, I DIDN'T HAVE TO
9 SUPERVISE MY CHILDREN BECAUSE THEY WERE OLD ENOUGH TO
10 MISS THAT.

11 SO, THAT DOESN'T MEAN I DON'T READ, YOU
12 KNOW, THE WALL STREET JOURNAL AND THE ECONOMIST AND THE
13 LA TIMES AND ALL OF THAT AND HAVE A CONCEPTUAL IDEA OF
14 HOW THIS IS; BUT I THINK IT WOULD PROBABLY BE GOOD TO
15 HAVE SOMETHING -- AGAIN, THIS IS NOT SOMETHING TO SAY HOW
16 YOUR ALGORITHMS WORK, THIS IS TO SAY WHAT'S THE USER
17 EXPERIENCE.

18 MAYBE YOU WANT TO DO SOMETHING MORE THAN
19 THAT. BUT AT LEAST THAT.

20 I DON'T KNOW HOW HARD THAT WILL BE TO DO.
21 YOU CAN KEEP SHOWING ME SCREENSHOTS AND I CAN READ.
22 THAT'S NOT A PROBLEM.

23 BUT, I'LL JUST SUGGEST THAT.

24 COURT LEADERSHIP STRUCTURE.

25 FIRST OF ALL, JUDGE -- I THINK JUDGE
26 GONZALES ROGERS PUT --

27 YES, GO AHEAD.

28 MR. KIESEL: YOUR HONOR, PAUL KIESEL.

1 WHEN WE GET TO THE LEADERSHIP ISSUE FOR
2 THIS COURT, I HAVE GOT SOME POINTS TO RAISE.

3 BUT, I WILL LET THE COURT GO.

4 THE COURT: OKAY.

5 FIRST I WANT TO ADDRESS DEFENDANTS. I
6 UNDERSTAND FROM READING THEIR ORDERS JUDGE GONZALES
7 ROGERS HAD A LIAISON COUNSEL FROM THE DEFENSE SIDE. THAT
8 SEEMS TO ME TO BE A GOOD IDEA. SO, IF YOU COULD THINK
9 ABOUT THAT AND VOLUNTEER SOMEONE AND SIGN THEM UP TO DO
10 THAT.

11 SO, THEY WOULD WORK WITH MISS MCCONNELL AND
12 MR. CREED THEN.

13 IS THAT OKAY?

14 MR. SCHMIDT: YES, YOUR HONOR.

15 THE COURT: THAT'S SO IF THERE IS A QUESTION ABOUT
16 WHO'S TAKING THE LEAD ON, YOU KNOW, HOW MANY PAGES THERE
17 WILL BE IN A BRIEF OR WHATEVER THERE IS ONE PLACE EACH
18 SIDE CAN CALL.

19 OKAY. GO AHEAD, MR. KIESEL. NOW I'M ABOUT
20 TO GET TO THE PLAINTIFFS SIDE, SO I TAKE IT THAT'S WHAT
21 YOU WANT TO TALK ABOUT.

22 MR. KIESEL: IT IS. I'M GOING TO SHORT-CIRCUIT
23 THIS ISSUE FOR EVERYBODY.

24 WE MET IN ADVANCE OF OUR HEARING TODAY, AND
25 I AM PLEASED TO TELL YOU WE HAVE REACHED AN AGREEMENT ON
26 LEADERSHIP STRUCTURE WHICH IS VERY SIMILAR TO WHAT THE
27 COURT HAS BEFORE IT. WE'RE GOING TO PRESENT AN ORDER TO
28 THE COURT, HOPEFULLY IMPLEMENT THAT -- HOPEFULLY WITHIN

1 THE NEXT FEW DAYS. BUT, WE NEEDN'T DEAL WITH OUR
2 LEADERSHIP ISSUES BEFORE THE COURT.

3 THE COURT: OKAY. ALRIGHT. THAT'S FINE.

4 FOR THOSE OF YOU WHO ARE -- AND THANK YOU
5 FOR THAT. I REALLY SINCERELY THANK THE PLAINTIFFS' SIDE,
6 MR. BERGMAN FOR WORKING ON THAT.

7 MR. BERGMAN: THANK YOU, YOUR HONOR.

8 THE COURT: FOR THOSE OF YOU WHO ARE MORE FAMILIAR
9 WITH MDL'S, LET ME JUST GIVE YOU A LITTLE CONTEXT.

10 I PARTICULARLY -- AND WE IN THE COMPLEX
11 COURTS TO SOME EXTENT -- I HAVE A STRONG PREFERENCE FOR
12 COUNSEL TO ORGANIZE THEMSELVES. I -- IT'S A
13 PHILOSOPHICAL THING WITH ME. THE INDIVIDUAL PLAINTIFFS
14 PICK THEIR LAWYERS. THOSE LAWYERS SHOULD DECIDE HOW TO
15 MAKE THE STRONGEST CASE FOR PLAINTIFFS. AND I DON'T
16 THINK IT'S THE COURT'S JOB TO PICK QUALIFIED COUNSEL TO
17 HELP THE PLAINTIFFS PREVAIL OVER THE DEFENDANTS.

18 SO, I AM -- I DON'T TRY TO DO SOME KIND
19 OF -- YOU KNOW, WHAT'S A NICE WAY OF PUTTING IT -- A
20 COMPETITION WHERE -- WHICH I KNOW THEY FEEL VERY STRONGLY
21 ABOUT IN FEDERAL COURT ABOUT HAVING COMPETITION FOR
22 PICKING WHO'S GOING TO BE THE LEAD AND ALL OF THAT. I
23 WOULD ONLY EVER DO THAT IF I GOT TO A PLACE WHERE I
24 COULDN'T MANAGE THE CASE BECAUSE THE LAWYERS WERE
25 BURDENING THE COURT WITH DUPLICATIVE WORK.

26 SO, THAT'S WHERE MY HEAD IS AT ON THIS.

27 AND I HAVE SAID THAT. AND, ACTUALLY, I
28 WAS -- I WON'T SAY WHERE I WAS.

1 BUT, I HAVE SAID THIS IN FRONT OF MULTIPLE
2 MDL JUDGES, OKAY. AND I KNOW THEY DON'T AGREE, BUT, I
3 FEEL STRONGLY ABOUT IT.

4 OKAY. LET ME SEE.

5 OKAY. NOW WE'RE DOWN TO NUTS AND BOLTS.

6 GUARDIAN AD LITEMS.

7 JUST FILE THE USUAL GUARDIAN AD LITEMS, I
8 THINK, AND I'LL PROCESS THEM.

9 MR. CREED: YOUR HONOR, THIS IS JESSE CREED.

10 FOR THE GUARDIAN AD LITEMS, WE FILE THEM
11 AND YOU PROCESS THEM. ARE THEY GOING TO GO DIRECTLY TO
12 YOUR COURTROOM, WHICH WOULD BE IDEAL BECAUSE, YOU KNOW, I
13 KNOW THE -- THE COMPETENCE OF YOUR STAFF AND SUCH.

14 OR ARE THEY GOING TO BE HANDLED BY THE
15 CLERK'S OFFICE? THERE'S A BACKLOG IN THE CLERK'S
16 OFFICE.

17 THE COURT: I HAVE TO RULE ON THEM.

18 I'M ASKING MISS MIRO.

19
20 (DISCUSSION BETWEEN THE COURT AND CLERICAL
21 ASSISTANT.)
22

23 THE COURT: WELL, EVERYTHING HAS TO BE E FILED.
24 AND IT GOES THROUGH YOUR EFUS OR WHATEVER THE NAME IS FOR
25 IT AND SO FORTH.

26 BUT, I HAVEN'T HAD TROUBLE GETTING GAL'S
27 INTO MY WORK QUEUE. I HAVE HAD TROUBLE GETTING THEM OUT
28 OF MY WORK QUEUE SOMETIMES IF THERE ARE HUNDREDS AND THEN

1 THE WORK CUE GOES LIKE THIS.

2 MR. CREED: WELL, THE CHALLENGE, YOUR HONOR, IS
3 THE CASES, WHEN THEY ARE NEWLY FILED, AREN'T COORDINATED
4 AT THAT POINT SO THEY END UP IN THE CLERK'S OFFICE AND WE
5 THEN FILE A PETITION FOR COORDINATION. AND THE CLERK
6 WON'T ISSUE A SUMMONS UNTIL THE GUARDIAN AD LITEM
7 PETITION IS --

8 THE COURT: UNTIL THE G.A.L. IS SIGNED.

9 AND I HAVE ONE OR TWO SHOW UP THAT WAY.

10 SO -- BUT WHAT I DON'T UNDERSTAND -- I'LL
11 TELL YOU WHAT, MR. CREED. WHY DON'T YOU CALL MISS MIRO
12 AND I'LL GET INVOLVED AND SHE'LL CONVEY TO ME AND WE WILL
13 SEE WHAT WE CAN WORK OUT. BECAUSE MANY OF THE CASES I
14 HAVE HAD HAVE HAD PLEADINGS THAT REFER TO A GUARDIAN AD
15 LITEM BUT HAVEN'T HAD -- BUT DON'T HAVE THE GUARDIAN AD
16 LITEM APPROVED BEFORE THEY'RE FILED. AND THEY'RE FILED
17 JUST FINE.

18 BUT, RECENTLY WE HAVE HAD A COUPLE GET
19 BOUNCED BECAUSE THE G.A.L. WASN'T APPROVED BEFORE FILING.

20 SO, I DON'T KNOW HOW THAT'S HAPPENING.

21 MR. CREED: WELL, IT -- YEAH. I CAN CALL MISS
22 MIRO, I CAN WORK WITH HER TO FIGURE OUT THE BEST WAY TO
23 PROCESS THEM. BUT THE IDEA --

24 GO AHEAD, YOUR HONOR.

25 THE COURT: MAYBE IF YOU DON'T USE THE WORD
26 "GUARDIAN AD LITEM" IN THE CAPTION AND INSTEAD SAY "ON
27 BEHALF OF MINOR SO AND SO."

28 I DON'T KNOW.

1 MR. CREED: I THINK THAT'S WHAT WE DID IN THE GAS
2 LEAK CASES; SO, WE CAN EXPLORE THAT OPTION.

3 THE COURT: WELL, THE GAS LEAK CASES THEY WERE
4 FILED REALLY, REALLY LATE. SO, WE DON'T WANT TO DO THAT.

5 BUT, IN MY -- IN MY DEPARTMENT OF WATER AND
6 POWER PUEBLO Y SALUD CASE, WHICH THE PARRIS FIRM IS
7 TAKING THE LEAD ON, THEY GOT A COMPLAINT FILED WITH, I
8 THINK, A THOUSAND PLAINTIFFS AND THEIR -- THEY'RE FILING
9 THEIR GUARDIAN AD LITEMS AND GETTING THROUGH JUST FINE
10 AND THEY DIDN'T HAVE TO HAVE THEM BEFORE THEY FILED.

11 MR. CREED: IN THE GAS LEAK WE DID APPOINT THE
12 GUARDIAN AD LITEMS LATE. BUT, THE COMPLAINTS WE FILED
13 FOLLOW THE FORMAT YOU'RE TALKING ABOUT. SO, MAYBE THAT'S
14 THE WAY WE --

15 THE COURT: SO, IT -- "ON BEHALF OF" AND DOESN'T
16 USE THE "AS GUARDIAN AD LITEM FOR." YEAH.

17 MR. CREED: YES --

18 THE COURT: AND I DON'T HAVE A PROBLEM WITH THAT
19 AS LONG AS -- YOU KNOW, WE'LL PROMPTLY FOLLOW UP SO THAT
20 WE WILL GET THEM ASSIGNED.

21 MR. CREED: YES. THAT SOUNDS LIKE A PLAN, YOUR
22 HONOR.

23 THE COURT: OKAY. SO, IF YOU CAN GET THE
24 COMPLAINT FILED, FILING THE GUARDIAN AD LITEM LATER THAT
25 DOES GO DIRECT TO ME, AND WE'LL GET TO THEM AS BEST WE
26 CAN.

27 PRO HAC VICES. I HAVE SO MANY OF THEM
28 WAITING.

1 SO, IF WE COULD FIND A WAY TO STIPULATE
2 THAT EVERYBODY IS WAIVING THE TIME TO OBJECT TO THEM --
3 BECAUSE IT'S LIKE A 20-DAY WAITING PERIOD --

4 MR. PANISH: WE WOULD STIP FOR ALL THE DEFENDANT
5 AND WE WOULD WAIVE THE TIME. THEY WOULD DO LIKEWISE I
6 THINK.

7 MR. SCHMIDT: YES.

8 THE COURT: I WILL START PROCESSING THEM ON THAT
9 ORAL STIPULATION. BUT, LET'S GET A WRITTEN STIP IN.

10 MR. PANISH: A WRITTEN STIP ON PRO HAC --

11 THE COURT: YEAH.

12 IT STILL MAY TAKE ME TIME, UNFORTUNATELY,
13 BECAUSE I JUST GET BEHIND.

14 BUT, THAT WAY WE DON'T HAVE TO PUT IT IN A
15 SEPARATE WAITING QUEUE FOR 20 DAYS.

16 OKAY. SO, MOVING FORWARD, I GOT YOU ALL IN
17 HERE ON A FRIDAY AFTERNOON. I DON'T KNOW THAT THAT'S A
18 CONVENIENT TIME FOR PEOPLE.

19 WHEN WOULD YOU LIKE TO HAVE STATUS
20 CONFERENCES?

21 MR. PANISH: HOW OFTEN ARE YOU ANTICIPATING
22 SCHEDULING THEM?

23 THE COURT: WELL, I'D LIKE TO GET -- PROBABLY
24 ABOUT ONCE A MONTH. IN GENERAL. YEAH.

25 MR. PANISH: WELL, I WOULD SAY THAT WE'RE MORE
26 OPEN.

27 BUT, THE PEOPLE THAT ARE TRAVELING -- I'M
28 SURE DEFENSE WOULD HAVE PEOPLE TRAVELING -- FRIDAY AND

1 MONDAY MIGHT NOT BE THE BEST DAYS.

2 SO, MAYBE WEDNESDAY.

3 WE GOING TO DO THEM ALL AT 1:45?

4 THE COURT: YES. 1:45.

5 MR. PANISH: IF THIS WAS AGREEABLE WITH THEM, THE
6 DEFENDANTS, WE COULD SAY WEDNESDAY AT 1:45.

7 THE COURT: OKAY. WE'LL TRY TO DO IT AT
8 WEDNESDAYS.

9 BUT, I'LL NOTE TO AVOID MONDAYS AND
10 FRIDAYS. I DIDN'T KNOW WHETHER THEY WANTED TO COME AND
11 STAY OVER THE WEEKEND.

12 NOT THAT. OKAY. THAT'S FINE. THAT'S
13 FINE.

14 SO, WHAT'S THE -- NOW WE NEED TO SET A NEXT
15 DATE.

16 WHAT I WOULD LIKE TO HAVE ACTUALLY IS
17 RATHER IS THAN TRYING TO PUT ALL OF THIS IN MINUTE ORDER,
18 WHICH I COULD DRAFT UP -- AND MAYBE I SHOULD DRAFT UP.
19 YOU TELL ME IF YOU'D PREFER -- YOU KNOW, I PROBABLY OUGHT
20 TO JUST DO THAT, JUST DRAFT UP A MINUTE ORDER AND IT WILL
21 HAVE EVERYTHING.

22 BUT, I DO NEED YOU TO CONFER, PARTICULARLY
23 ABOUT THE TIMING OF THE PROGRESSION OF MASTER COMPLAINTS
24 AND I STILL CALL THEM JOINDERS -- THE INDIVIDUAL
25 COMPLAINTS AND THE MOTIONS AND THE HEARING, ET CETERA,
26 LEADING UP TO THE DEMURRER. BRIEFING, ET CETERA. SO,
27 YOU ALL NEED TO CONFER ON THAT.

28 AND I -- I'D LIKE TO GET THAT FROM YOU

1 PRETTY QUICKLY SO WE CAN --

2 MR. PANISH: SUBMIT A PROPOSED JOINT ORDER?

3 THE COURT: THAT WOULD BE FINE. ON THE TIMING.

4 AND IF YOU CAN'T AGREE, JUST GIVE ME YOUR
5 ALTERNATIVES AND TELL ME WHETHER YOU'D LIKE TO HAVE PHONE
6 CONVERSATION ABOUT IT AND WE CAN SET THAT UP.

7 ALL RIGHT. SO, I WILL PUT WHAT WE
8 DETERMINED IN A MINUTE ORDER WHICH I WILL DRAFT. IF
9 THERE IS ANYTHING WRONG IN IT, CONFER AND DO A POSTING ON
10 THE MESSAGE BOARD AND LET ME KNOW.

11 OUR THINGS DON'T LOOK AS PRETTY AS FEDERAL.
12 I'M SORRY. BUT, I HAVE ONE CLERK. THAT'S IT. PLUS YOU
13 ALL.

14 SO, I'LL DO THAT.

15 AND IF -- IF PLAINTIFFS' LIAISON COUNSEL
16 WILL GIVE NOTICE BY GETTING A COPY OF THE MINUTE ORDER,
17 WHICH DOES NOT GO INTO CASEANYWHERE, YOU GOT TO GET IT
18 OUT OF THE DOCKET, GET IT OUT OF THE DOCKET AND THEN
19 SERVE IT. OKAY.

20 AND THEN YOU'LL FILE PROPOSED SCHEDULE BY
21 WHEN? SCHEDULE ON --

22 MR. PANISH: THIS IS ON THE DEMURRER PROCESS?

23 THE COURT: ON THE MASTER COMPLAINT LEADING UP TO
24 THE DEMURRER.

25 NEXT FRIDAY. OR IS THAT TOO SOON?

26 MR. KIESEL: MAYBE THE 10TH, YOUR HONOR, SO WE
27 HAVE TWO WEEKS TO GET IT DONE.

28 THE COURT: OKAY. ALL RIGHT. MARCH 10. I'LL PUT

1 THAT IN THE MINUTE ORDER.

2 SO, OUR NEXT STATUS CONFERENCE THEN --

3 DO YOU KNOW WHEN JUDGE GONZALES ROGERS IS

4 HAVING ONE?

5 MS. HAZAM: YES, YOUR HONOR. MARCH 3. FRIDAY,

6 MARCH 3.

7 THE COURT: WELL, ONE MONTH WOULD BE ABOUT

8 MARCH -- MARCH 22, 1:45.

9 AND, THEN, PLEASE FILE A JOINT REPORT BY --

10 CAN YOU DO IT BY THE 17TH?

11 MR. KIESEL: SURE.

12 THE COURT: GIVES ME OVER THE WEEKEND TO LOOK AT

13 IT.

14 MR. SCHMIDT: YES, YOUR HONOR.

15 THE COURT: IF YOU RUN INTO PROBLEMS, DO A

16 POSTING. AND I WILL LOOK FOR IT MIDDAY ON THE 20TH, BUT

17 TRY FOR THE 17TH. OKAY?

18 ALL RIGHT. THANK YOU ALL. HAVE A VERY

19 GOOD WEEKEND.

20
21 (ENDING TIME: 3:15 P.M.)
22
23
24
25
26
27
28

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

DEPARTMENT 12

COORDINATION PROCEEDINGS)
SPECIAL TITLE (RULE 3.550))JCCP NO. 5255
)
SOCIAL MEDIA CASES)REPORTER'S
_____)CERTIFICATE

I, GAIL PEEPLES, PRO TEMPORE COURT REPORTER OF
THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF
LOS ANGELES, DO HEREBY CERTIFY THAT THE FOREGOING PAGES 1
THROUGH 53, INCLUSIVE, COMPRISE A FULL, TRUE, AND CORRECT
TRANSCRIPT OF THE PROCEEDINGS HELD IN DEPARTMENT 12 ON
FEBRUARY 17, 2023, IN THE MATTER OF THE ABOVE-ENTITLED
CAUSE.

DATED THIS 19TH DAY OF FEBRUARY, 2023.

GAIL PEEPLES, CSR NO. 11458
PRO TEMPORE REPORTER

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: 1..ALPHABET

<hr/> <p style="text-align: center;">1</p> <hr/> <p>1 54:13</p> <p>10 52:28</p> <p>10TH 52:26</p> <p>11458 1:5 54:21</p> <p>12 1:4 54:3,15</p> <p>14 13:10</p> <p>17 1:3 30:8 54:16</p> <p>17TH 53:10,17</p> <p>18 30:8 41:23</p> <p>183 8:14</p> <p>1980 24:3</p> <p>19TH 54:18</p> <p>1:45 51:3,4,6 53:8</p>	<p>3.550 54:5</p> <p>30 18:17,19,22</p> <p>3:15 53:21</p> <p>3RD 13:23</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 27:20,21</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>50 19:21</p> <p>5255 1:1 54:5</p> <p>53 54:14</p> <p>55 19:8</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 4:12</p> <p>60 17:20 19:7</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>780 24:1,6</p> <hr/> <p style="text-align: center;">A</p> <hr/> <p>ABILITY 21:21</p> <p>ABOVE-ENTITLED 54:16</p> <p>ABSOLUTELY 42:24</p> <p>ABUSE 41:23</p> <p>ABUSING 24:4</p> <p>ACCEPT 25:15,16</p> <p>ACCEPTABLE 15:11 37:2</p> <p>ACCESS 37:14,16,18</p> <p>ACCOMPLISHED 13:3</p> <p>ACCOMPLISHING 23:7</p> <p>ACCOUNT 13:15</p> <p>ACCOUNTABILITY 31:9</p> <p>ACCOUNTS 38:9 41:8</p> <p>ACTION 31:25</p>	<p>ACTIVE 6:4</p> <p>ACTIVELY 31:2</p> <p>ACTIVITIES 5:28</p> <p>ACTIVITY 34:21 35:26</p> <p>AD 47:6,7,10 48:6,14,15,26 49:9,12,16,24</p> <p>ADD 7:24 8:23 9:4 10:16</p> <p>ADD-ON 6:25</p> <p>ADDITION 20:16</p> <p>ADDITIONAL 7:25 8:2</p> <p>ADDRESS 27:7 33:7 45:5</p> <p>ADDRESSED 17:27</p> <p>ADDRESSING 4:14 37:21</p> <p>ADMINISTRATIVE 20:1,6</p> <p>ADVANCE 17:11 20:22 21:11,12 45:24</p> <p>AFRAID 24:28</p> <p>AFTERNOON 1:9,26 2:6,8,17,19,22,26,28 3:5,7,9,12,14,16,21,22 7:9 50:17</p> <p>AGENDAS 30:17</p> <p>AGGREGATE 6:5</p> <p>AGREE 10:8 17:24 20:2,24 37:26 38:18 40:28 41:3 47:2 52:4</p> <p>AGREEABLE 51:5</p> <p>AGREED 16:7 18:14 29:5 35:3</p> <p>AGREEMENT 40:13 45:25</p> <p>AGREES 20:8</p> <p>AHEAD 1:25 16:1,24 29:2 31:10 34:4,14 36:26 37:24 43:13 44:27 45:19 48:24</p> <p>ALGORITHMS 44:16</p> <p>ALLEGATIONS 11:22 19:16 20:12 24:8 32:20</p> <p>ALLEGED 21:23 32:3</p> <p>ALLEGEDLY 24:4</p> <p>ALLEN 1:19</p> <p>ALLUDED 21:8</p> <p>ALPHABET 3:11</p>
<hr/> <p style="text-align: center;">2</p> <hr/> <p>2.500 11:8</p> <p>2.550 10:19</p> <p>20 50:15</p> <p>20-DAY 50:3</p> <p>2000 38:25</p> <p>2015 24:3</p> <p>2023 1:3 54:16,18</p> <p>2030(C)(1) 25:20</p> <p>20TH 53:16</p> <p>22 53:8</p> <p>22568 41:23</p> <p>230 16:22 25:14 27:23 28:2</p> <p>24 5:27</p> <p>27 5:22,23</p> <p>28 16:8</p> <hr/> <p style="text-align: center;">3</p> <hr/> <p>3 7:13 53:5,6</p> <p>3.400 4:27</p>		

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: ALRIGHT..CASE

ALRIGHT 18:12 46:3	ASSIGNED 49:20	BOLTS 47:5
ALTER 27:20	ASSISTANT 12:25 47:21	BOOK 19:15
ALTERNATIVE 9:11,14	ASSOCIATION 6:2	BOUNCED 48:19
ALTERNATIVES 52:5	ASSUMING 17:17	BOX 8:26
AMENDMENT 24:27	ATTENDED 24:2	BOYLE 1:27
AMERICAN 6:4,6,8,18	ATTORNEY 32:7	BRIAN 2:6
AMOUNT 38:28	AVOID 22:8 35:23,24 51:9	BRIDGE 29:20
AMY 2:28		BRIEFING 27:26 29:3,7 36:23 37:7 51:26
ANGELES 1:3 54:2,13	<hr/> B <hr/>	BRIEFS 25:19
ANTICIPATE 8:20 36:14	BACK 10:8 14:11 27:2,22 34:23 44:8	BRING 8:3 9:12 15:14,21 22:27 24:12 41:27 42:11
ANTICIPATED 17:7	BACKLOG 47:15	BRINGING 32:10
ANTICIPATING 50:21	BAD 27:6	BROUGHT 39:21
ANTICIPATION 8:1	BANC 28:8	BURDEN 37:11
APPEAL 11:19	BAR 5:28 6:2	BURDENING 46:25
APPEARANCE 2:15	BARRED 31:7	BURLING 3:6,8
APPEARANCES 1:7,16 2:13 3:3,26 4:2	BASED 18:20 24:17 35:16	BYTEDANCE 3:13,18
APPELLATE 11:28	BASIC 30:20 32:8 37:14	
APPLICABLE 10:17	BASICALLY 22:10	<hr/> C <hr/>
APPLICATION 1:20 3:20	BEAR 41:20	C-SAM 42:14
APPLIES 25:24	BEASLEY 1:19	C1rtify 54:13
APPLY 5:13 31:6	BEGUN 16:6	CABRASER 2:23 6:7 16:3
APPOINT 49:11	BEHALF 3:24 48:27 49:15	CALIFORNIA 1:3 4:26 5:15 10:18 11:8,18 19:20 24:2 28:16 31:7 32:7 54:1,12
APPRECIATES 4:21	BERGMAN 2:8,9 46:6,7	CALL 18:1 39:22 45:18 48:11,21 51:24
APPRISED 41:12	BERNSTEIN 2:23	CALLED 44:4,6
APPROACHING 6:11	BIG 16:21,22 21:13 22:18	CALLING 17:24,25 41:4
APPROVE 22:21 23:10	BIGGEST 1:10	CAPTION 48:26
APPROVED 1:21 48:16,19	BIT 4:24 5:4 6:24 9:22 23:18 24:13 30:6	CARDS 2:14
APPROXIMATELY 18:15	BITE 38:14	CARE 43:2
APPS 43:22	BLANK 35:21	CAROLYN 1:4
APRIL 27:20,21	BLANKET 11:26	CASE 1:1,2 7:12,14,19,21 10:24 11:19,28 12:8,11 13:22 17:25 18:8,16 20:26 21:10 23:25,26 24:1,8,13 30:7,22 32:10 34:23,24, 25 36:13 37:7 39:26 40:14 41:11 46:15,24 49:6
APT 31:14	BLANKS 7:12	
ARGUMENT 25:24 28:6	BLASCHKE 3:16,17	
ARGUMENTS 5:7 25:1,5 26:1,3, 23	BLAVIN 3:14,15	
ASHLEY 3:5	BLOCKS 12:14	
ASSAULTING 24:5	BOARD 5:14 9:27 10:10 52:10	

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: CASEANYWHERE..COUNTY

CASEANYWHERE 9:24,25,27 14:3 15:4,5,10,22 52:17	COMMUNICATE 22:16	CONFIRM 7:3
CASES 1:2,13 4:27 5:11 6:1,11, 28 7:4,10,24,25 8:2,13,14,21,23 11:16 12:6 18:21 21:22 24:6,9 28:5 30:16,20 33:1,3 39:7 40:3,5, 8,14 48:3,13 49:2,3 54:6	COMMUNICATING 9:19	CONJUNCTION 43:14
CATCH 27:10,26	COMPEL 36:27	CONNECTION 21:8
CATEGORY 42:9	COMPETENCE 47:13	CONNECTIONS 6:20
CAUGHT 24:28	COMPETITION 46:20,21	CONNIFF 6:2
CAUSATION 24:26	COMPLAINT 13:2,6,20,21,26,28 14:8,25 15:18 16:5,12 17:16 18:5, 6,16,27,28 19:6,11,12,16,23,24, 26 20:2,5,10,11,16,20,25 21:2,13, 17 22:8,13 23:10,23 24:7,17,18 25:2,28 32:18,21,22 49:7,24 52:23	CONSENTUAL 40:13 42:9
CENTER 2:9,20	COMPLAINTS 13:10 16:18 17:28 20:25 21:9,18,19,25 24:16, 20,21 25:27 26:8,28 32:12,13,15 40:17,23 49:12 51:23,25	CONSIDERED 36:16
CETERA 24:11 35:5 51:25,26	COMPLETE 24:17,21 25:1 40:15	CONSIDERS 19:21
CHALLENGE 24:22 29:1 48:2	COMPLETED 33:28	CONSISTENT 30:2 32:9
CHALLENGES 13:4 22:9 24:16, 17 33:28	COMPLEX 4:23,25 5:14 8:26 9:28 10:28 38:24 46:10	CONSTRUCTIVE 4:20 19:2
CHAT 4:6	COMPLIANT 21:1	CONSULT 35:13
CHECKED 8:27	COMPLICATED 6:12	CONTACT 10:1
CHILD 41:23	COMPLIMENT 4:16	CONTENT 16:14 20:19
CHILDREN 43:28 44:9	COMPLY 15:12	CONTEXT 22:14 31:28 46:9
CHIOU 3:9,10	COMPRISE 54:14	CONTINUE 33:4
CHRISTOPHER 3:10	CONCEPT 13:5 26:10	CONTINUING 10:11 33:27
CIVIL 4:19 39:13	CONCEPTUAL 44:13	CONTRIBUTION 6:13
CLAIMS 20:4 21:22 31:19,23 32:24,25 40:24	CONCERN 32:17,27 35:15	CONVENIENT 50:18
CLARIFICATION 17:2	CONCERNED 43:15	CONVERSATION 52:6
CLEAN 7:2	CONCERNS 26:28	CONVEY 48:12
CLEARER 23:18	CONDUCT 43:24	CONVINCE 39:24
CLERICAL 47:20	CONFER 16:5 17:4,10,17 18:4 19:23 20:7,10,19 21:2,5,11,18 22:6 23:6 37:25 39:11 42:18 51:22,27 52:9	COORDINATE 10:14 34:4,9
CLERK 3:26 48:5 52:12	CONFERENCE 8:13,24 9:9 11:14 13:22 17:6 53:2	COORDINATED 6:28 24:1 28:5 48:3
CLERK'S 47:15 48:4	CONFERENCES 50:20	COORDINATION 48:5 54:4
CLIENTS 5:3	CONFERRING 16:11,13,15 18:11 19:22 22:7 31:3 33:4	COPY 7:18 15:15,21 52:16
CLOSE 39:5 44:2	CONFERS 29:5	CORE 5:9,10
CLOSELY 39:5	CONFIDENTIAL 42:4	CORRECT 14:16 15:28 54:14
COLLEAGUE 3:19		CORRELATE 26:16,18
COLLEGE 35:9 44:3		COSTS 4:28 5:8
COMFORTABLE 15:6		COTTRELL 3:1
COMMENTS 19:1,2,5		COUNCIL 6:6,8,18
COMMITTEE 6:9 11:2,3 30:11, 12		COUNSEL 5:2,18 6:1,10 7:26 9:7,28 10:4,14,25 11:3,24 12:12, 18 23:6 32:5 40:7 45:7 46:12,16 52:15
		COUNTRY 8:14
		COUNTY 6:2 8:5 9:1,11 54:2,12

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: COUPLE..DRAFTED

COUPLE 4:3 7:22 23:21 48:18 COURT 1:9,14,15,22,28 2:13,21,25 3:2,25 4:15,21,26 5:3 7:16,20 8:3,9,23,28 9:9,12,13 10:1,17,18,20,23,28 11:8,18,19 12:2,22,26 13:9,13,17 14:1,4,16,19,21 15:3,7,11,13,14,17,18,20 16:9,17 17:12,22 18:1,8,10,12,19,25 19:7,22,27 20:8,17,22,23 21:24 22:1,4,10,22 26:17 27:5,17,23,27 28:9,13,14 29:7,11,12,16,18,24,25,26 30:10 31:20 32:11 33:7,8,15 37:23 38:24 40:25 41:27 42:19,20,27 44:24 45:2,3,4,15,27,28 46:2,3,8,21,25 47:17,20,23 48:8,25 49:3,15,18,23 50:8,11,23 51:4,7 52:3,23,28 53:7,12,15 54:1,11,12 COURT'S 5:18 8:7 10:28 46:16 COURTCONNECT 2:3 COURTROOM 1:17 4:1 7:8 12:25 47:12 COURTS 4:23 5:15 9:1,28 10:22 38:24 46:11 COVINGTON 3:6,8 CREATE 5:5 CREED 6:13,15 7:6,7 22:3,4 26:11 45:12 47:9 48:2,11,21 49:1,11,17,21 CRITICAL 41:19 CROP 22:15 CRUTCHER 5:26 CSR 1:5 54:21 CUE 48:1 CUT 26:7 <hr/> D <hr/> DATA 37:17,19 DATE 51:15 DATED 54:18 DATES 10:11 DAUGHTER 44:1,3 DAUGHTERS 44:1	DAY 43:17,21 54:18 DAYS 7:18 17:21 18:17,19,22 22:27 46:1 50:15 51:1 DEAL 46:1 DEALING 4:20 DEALT 39:27 41:1 DECADES 24:5 DECEDEMENTS 35:19 DECIDE 36:25,28 46:14 DECIDED 28:7,19 DECISION 29:8,12,24,25,26 DECISIONMAKING 5:2 DECLINED 21:3 DEFENDANT 3:24 14:21 17:18 19:17 25:13,25 50:4 DEFENDANTS 3:4,6,8,15 10:6 12:13,19 16:5,12,19 18:4,28 19:5,12 20:4,13 22:27 23:1 24:21 30:7 32:20 33:23 34:13,19,20 35:2,23 36:8,17 38:8,17 39:9 41:5 42:10,23,27 45:5 46:17 51:6 DEFENDANTS' 23:12 25:4,7 26:16 41:22 DEFENSE 9:7 13:19 15:8 26:13,25 45:7 50:28 DEGTAREVA 3:22,23 DELAY 40:7 DEMURRER 19:5 22:15 25:5,11,12 28:16 29:7 51:26 52:22,24 DEPARTMENT 1:4 49:5 54:3,15 DEPEND 8:19 DEPENDS 15:3 29:16 DEPOSE 36:10 DEPOSITION 36:9 DEPTH 36:24 DESCRIBES 37:8 DESTROY 41:25,28 DESTROYED 43:3 DETAILED 40:17 DETERMINE 31:25	DETERMINED 30:18 52:8 DEVELOPMENT 40:14 DIFFERENCE 21:13 DIFFERENCES 19:18,19 31:15 DIFFERENTLY 5:13 DILIGENCE 32:8,9 DILIGENCES 31:10 DIMINISH 16:25 DIRECT 8:4 15:17 49:25 DIRECTION 34:10 DIRECTLY 47:11 DISAGREEMENT 10:3 34:19 DISCLOSURES 5:16 DISCOURAGE 43:25 DISCOVERY 30:1,2 33:21,22,25,27 34:5,8,12 36:21 39:6,9,17,18,19 DISCUSS 26:13 28:28 DISCUSSED 17:20 18:4 29:5 39:19,20 DISCUSSION 21:27 34:3 38:17,22 43:11 47:20 DISMISS 28:17 DISPUTES 16:7 39:18 DISTINGUISH 29:26 DOCKET 52:18 DOCTOR 30:26 35:12 DOCTOR'S 30:27 DOCTORS' 35:5 DOCUMENT 14:18 34:2 DOCUMENTATION 32:26 DOCUMENTED 32:25 DOCUMENTS 10:19 24:11 33:22 35:4 36:3,6 DOE 11:14,15 DOUBLED 8:18 DRAFT 7:17 16:19 18:27 51:18,20 52:8 DRAFTED 11:1
---	---	--

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: DRAKE..FRIDAY

DRAKE 3:19,21	EVIDENCE 40:27	FIGURING 26:6
DRILL 32:24	EXAMPLES 23:22	FILE 7:21 9:11 15:7 17:16 18:16, 23 22:24 26:15 47:7,10 48:5 52:20 53:9
DRINKER 3:13	EXCEL 12:8 14:12	FILED 8:5,6,25,26,28 9:1 10:3, 19,22 13:10 14:14,26 17:21 18:21 20:25 26:21 47:23 48:3,16 49:4,7, 10,12,24
DRUG 30:22	EXCEPTION 21:20 42:7	FILING 8:4 9:24 17:11 20:22 21:12 32:3 48:19 49:8,24
DUNN 5:26	EXHIBIT 6:26 7:24	FILINGS 9:8
DUPLICATING 33:25	EXISTS 14:9	FILLING 38:9
DUPLICATIVE 34:12 46:25	EXPECT 26:15 29:17 34:4	FIND 8:27 26:4,23 42:5 50:1
DUTY 14:2	EXPECTATION 8:17	FINE 4:17 9:13 15:20 27:15 33:27 46:3 48:17 49:9 51:12,13 52:3
<hr/>	EXPERIENCE 44:17	FIRM 1:19 5:27 49:6
E	EXPERT 31:20 42:15	FIT 31:24
<hr/>	EXPLAIN 43:21	FIX 21:15
E-MAIL 12:26	EXPLORE 49:2	FOCUS 30:19
EARLIER 33:19	EXPRESS 32:28	FOCUSING 33:1,2
EARLY 5:11 9:21 30:6,15,19,24 32:1,12 40:8 41:5,14	EXTENT 5:1 34:22 41:6 46:11	FOLKS 4:3 8:15
EASIER 26:19	EXTRAORDINARY 33:9	FOLLOW 10:26 29:16 49:13,19
ECHO 20:15	EXTREMELY 35:4	FOOTNOTE 40:22,25
ECONOMIST 44:12	<hr/>	FORCE 28:3
EFFICIENCY 29:15	F	FOREGOING 54:13
EFUS 47:24	FACEBOOK 43:27 44:6	FORESEEABLE 8:18
ELECTED 6:6	FACT 7:4,17 30:23 31:16 32:1 33:11,16 34:18 35:7,16,24,25 36:2,3 37:25 38:10 40:9,11,15	FORGET 23:20
ELEMENTS 25:20	FACTUAL 5:10 20:11	FORGOT 2:3
ELSE'S 3:2	FAEGRE 3:13	FORM 10:28 13:27 15:25 16:4 17:24,28 18:1,5,16 19:23,26 20:10,16,21,24,25 21:17,18,19,24 22:24,25 23:10,23 24:18 26:8 32:22 37:25 41:4
EMAIL 12:25 15:17	FAIR 8:11	FORMAT 15:26 16:4,7 19:23,24, 25 20:7 23:10 30:5 38:4 49:13
EN 28:8	FALL 29:28 42:8	FORMS 18:14 41:17
ENCOURAGE 9:28	FAMILIAR 9:26 30:9 46:8	FORWARD 13:4 34:17 50:16
END 1:23 21:20 48:4	FEATURE 9:27	FRAME 7:27
ENDING 53:21	FEBRUARY 1:3 13:10 16:7 54:16,18	FRANKLY 32:12
ENTERED 20:17	FEDERAL 6:8 10:22 27:27 28:5, 9 29:24,26 30:11,15 31:3,5 41:11 42:2 46:21 52:11	FREE 9:20
ENTITLED 34:26	FEEL 4:5 9:20 15:3,6 18:27 23:9 42:27 46:20 47:3	FRIDAY 7:1 50:17,28 52:25 53:5
ENTITLEMENT 34:28 35:1	FELT 12:2	
ENVISION 19:17 24:27	FIELD 5:6	
ESI 43:13,14	FIGURE 19:4 25:26,28 26:6,9 48:22	
ESKIN 2:28		
ESSENTIAL 21:18		
ESSENTIALLY 12:11		
ETHICAL 5:16 43:24		
EVENT 29:20		

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: FRIDAYS..INSTINCT

FRIDAYS 51:10	GUESS 7:21 16:28 23:5 35:21	47:9 48:2,24 49:22 52:26 53:5,14
FRIEND 6:19	GURU 43:14	HONOR'S 31:11
FRONT 4:2 47:1	GYNECOLOGIST 24:4	HUGE 38:28
FULL 54:14		HUNDREDS 47:28
FUTURE 8:19,20	H	HUSBAND'S 5:26
G	HAC 1:22 3:20 49:27 50:10	I
G.A.L. 48:8,19	HALF-HOUR 43:7	IDEA 17:15 22:2,4 38:10 40:19 44:13 45:8 48:23
GAIL 1:5 54:11,21	HANDLE 21:14	IDEAL 47:12
GAL'S 47:26	HANDLED 41:14 47:14	IDENTIFIED 11:16 17:5
GARRETT 2:19,20	HAPPEN 13:11 22:23	IDENTIFY 41:8
GAS 6:10 49:1,3,11	HAPPENED 13:12	IDENTIFYING 41:24
GAVE 8:13	HAPPENING 48:20	IMPLEMENT 45:28
GENERAL 5:11 26:10 32:23 50:24	HAPPY 10:13 22:18 29:11 41:10	IMPLEMENTATION 20:17
GIBSON 5:26	HARD 3:28 7:17,18 15:14,21 32:24 44:20	IMPORT 41:11
GIVE 4:24 33:6 34:16 39:24 46:9 52:4,16	HASAM'S 6:7	IMPORTANT 20:6,9 21:21 24:9 36:25
GLAD 2:13,15 11:20	HAZAM 2:22,23 16:1,2,13 17:2 20:14 53:5	IMPROVE 5:2
GOAL 33:6	HEAD 46:26	INCLINED 34:11
GOALS 4:25	HEADED 23:19 43:6	INCLUDE 10:18 32:7
GOING-IN 39:26	HEALTH 11:23	INCLUDED 7:11,17
GONZALES 6:17 9:19 12:4 13:9, 23 14:4 16:8 27:19,24,28 28:12 29:7,11 31:4 32:6,28 34:1,5 43:18 44:26 45:6 53:3	HEAR 1:23 2:2,13,15 3:4 4:3 24:26 25:18,19 28:1,2 38:20 43:11	INCLUDING 37:17
GOOD 1:9,26 2:6,8,17,19,22,26, 28 3:5,7,9,12,14,16,21,22 4:18 9:17 13:13 15:23 26:17 29:27 34:16 41:3 42:23,24 44:14 45:8 53:19	HEARD 28:6	INCLUSIVE 54:14
GOOGLE 3:10 27:24	HEARING 4:5 45:24 51:25	INDEPENDENT 39:12
GOVERNS 10:19,24	HEIMANN 2:23	INDEPENDENTLY 28:7
GRANT 11:19	HELD 54:15	INDIVIDUAL 13:2 15:27 17:25 20:3 24:8 34:8,21 46:13 51:24
GRATEFUL 37:6	HELPED 40:6	INDIVIDUALLY 28:19
GREAT 10:11 12:9 26:3	HELPFUL 12:15 14:1,9	INFORMALLY 39:17
GROUND 17:7	HINTS 4:3	INFORMATION 30:20 32:2 34:20 38:13 41:7
GROUP 1:10 23:28 24:1	HOLD 15:1	INITIAL 11:13 20:20 29:1 40:4
GUARDIAN 47:6,7,10 48:6,14, 15,26 49:9,12,16,24	HOLDING 27:22	INITIALS 11:17 14:14
	HON 1:4	INJUNCTIVE 33:18,20 40:24
	HONOR 1:18 2:6,8,11,17,19,22, 26,28 3:5,7,9,12,14,16,21,22 7:28 8:11 13:8,12 14:25,28 15:16 16:2, 16 17:3,20,28 18:3,7,9,17,20 19:9 20:14,27 26:11,26 27:15 28:26 37:4,8 42:12 44:28 45:14 46:7	INJURIES 31:16
		INSTANCE 14:8
		INSTINCT 40:4

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: INSTITUTE..MAJOR

INSTITUTE 6:5,6,8,18	30:10 31:4 32:6,28 34:1,5 43:18, 24 44:25 45:6 53:3	LEADING 51:26 52:23
INSTRUCTIVE 24:14		LEAGUE 44:7
INTANGIBLE 31:17	JUDGES 5:12 11:2 28:5,9 31:9 43:25 47:2	LEAK 49:2,3,11
INTELLECT 28:13	JUDICIAL 29:15	LEAVE 12:14 23:11 30:3
INTEND 42:18	JUDICIOUS 25:16	LEGAL 5:10 12:7,12 14:13,15 19:20 25:24
INTERESTED 43:18	JURIES 5:3	LENGTH 17:6
INTERESTING 37:1		LEVEL 37:16
INTERPRETATIONS 42:16	<hr/> K <hr/>	LEXI 2:22 16:2 20:14
INTRODUCTION 4:24	KELLY 2:26	LIAISON 12:18 45:7 52:15
INVOLVED 5:19,28 8:15 16:10 31:13 48:12	KIESEL 2:11,18 6:2 7:6,28 8:10, 11 9:6 14:10,17,20 15:16 17:28 44:28 45:19,22 52:26 53:11	LIEFF 2:23 16:3
INVOLVES 20:18	KIND 5:20 7:1,3 16:11,15 26:19 28:8 31:12,24 32:10 36:4,23 39:16,28 46:18	LIKEWISE 50:5
INVOLVING 34:8	KINDLY 34:11	LIMITATIONS 13:24
IQBAL 28:16	KINDS 32:19	LINING 40:14
ISSUE 4:6 7:21 11:12 14:11 21:9 22:15 24:12 25:11,14 27:23 30:9 34:2,9 38:28 40:28 42:1 43:16,22 45:1,23 48:6	KING 3:17	LINSLEY 5:24
ISSUED 7:1	KNEW 7:2	LIST 5:20 7:10 38:8
ISSUES 4:21 5:10 6:12 11:6,9 12:1 13:27 14:28 15:11 19:7,20 21:7,12 22:18 24:10,24 27:9 30:14 31:21 39:1 46:2	KNOWING 38:12	LISTEN 16:19 40:19
IVY 44:7	KONECKY 3:1	LISTENING 33:9
	KRISTIN 5:24	LITEM 48:6,15,16,26 49:16,24
	KUHL 1:4	LITEMS 47:6,7,10 49:9,12
<hr/> J <hr/>	<hr/> L <hr/>	LITIGATION 4:28 5:8,19 6:5 20:21 39:28 41:14,28 42:6 43:3
JCCP 1:1,12 8:21 9:11 31:6	LA 6:2 8:26 10:27 44:13	LOCATION 28:6
JCCP'S 31:13	LADDON 3:12,13	LODGE 15:14
JEFF 3:19	LARGE 6:13 14:26	LODGED 12:21
JESSE 7:6,7 26:11 47:9	LARGER 8:15,20	LODGING 7:18 20:12
JOB 46:16	LATE 49:4,12	LOGISTICALLY 21:14
JOINDER 17:25	LAURA 2:19	LONE 30:24,26
JOINDERS 13:2 15:27 51:24	LAW 1:19 2:9,18,20 5:26 6:4,6,8, 18 19:20,21	LONG 18:14 49:19
JOINED 3:19	LAWYER 9:10 31:7	LOS 1:3 54:2,13
JOINT 52:2 53:9	LAWYERS 46:14,24	LOT 8:19 27:14 28:14 31:13 33:2 37:26 39:1,26,28 41:9
JONATHAN 3:14	LEAD 6:10 10:3 45:16 46:22 49:7	LOTS 19:4
JOSEPH 1:18 13:7 42:12	LEADERSHIP 11:24 44:24 45:1, 26 46:2	LOVE 14:8 28:11,24
JOURNAL 44:12		<hr/> M <hr/>
JUDGE 1:4 6:17 9:19 12:4 13:9, 22 14:3 16:8 27:19,28 28:12,13		MADE 6:13 38:26
		MAJOR 19:18

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: MAKE..OPPOSITION

MAKE 5:6,16 21:13 23:8,20 33:1 38:11,12,13 40:1 42:7 46:15 MAKES 9:5 22:17 28:25 37:27 39:14 41:3,9 MANAGE 46:24 MANAGEMENT 13:22 MANIFESTATION 25:23 MANNER 17:8 MARCH 52:28 53:5,6,8 MARIANA 2:18 MARK 23:11 MARQUEZ 2:20 MASS 39:28 MASTER 13:2,6,10 14:8,24 16:12,18 17:16,21 18:5,27,28 19:11,12,24 20:5,11 21:1,2 22:12 24:7,18 26:20 32:18,20 51:23 52:23 MASTERS 38:25,26 MATERIAL 37:12 41:23,24,28 42:3 MATTER 36:24 54:16 MATTERS 40:6 MATTHEW 2:8 3:17 MCCONNELL 2:17,18 45:11 MCNABB 2:26,27 MDL 5:12 10:15 13:10 14:28 15:17 16:10 19:13,20 21:2,27 28:5 29:2 30:13 31:3,5,24,28 32:5,19,23 33:23,26 41:1 43:14 47:2 MDL'S 46:9 MEANS 5:5 31:25 MEDIA 1:2,13 2:9,20 31:16 43:22,25 54:6 MEDIATE 39:22 MEDICAL 34:25,27 35:5 38:5 MEET 16:5 17:4,10 18:4 20:7,10, 19 22:6,7 29:5 37:25 39:11 42:18 MEMORY 35:16 MENTAL/EMOTIONAL 11:23	MENTION 9:3 41:23 MERITS 5:7 MESSAGE 9:27 52:10 MET 45:24 META 3:6,8 13:18 14:23 20:28 26:26 31:1 37:5 MICROPHONE 2:1 MICROPHONES 4:15 MIDDAY 53:16 MIDDLE 2:25 MIND 30:28 38:10 MINI 30:23 MINOR 14:14 48:27 MINORS 11:21 35:19 MINUTE 12:28 33:12 40:27 51:17,20 52:8,16 53:1 MIRO 4:11 12:24,26 47:18 48:11, 22 MISSING 6:20 MODE 4:20 MOMENT 36:22 MONDAY 51:1 MONDAYS 51:9 MONTH 50:24 53:7 MONTHS 35:13 MOTION 10:3 13:21 22:27 23:2 25:5,6 28:2,17 36:23,27 38:18,20 41:27 42:11,22,25 MOTIONS 17:7 23:16,17 28:1 39:19,20 51:25 MOVE 4:27 13:4 MOVING 41:10 50:16 MULTIPLE 25:19 47:1 MUNGER 3:15,23 5:22 6:15 MUTE 4:10 <hr/> N <hr/> NAMES 12:12 14:15 NARROW 38:11	NARROWER 38:13 NEBULOUS 5:4 NEEDED 12:2 NEEDN'T 39:25 46:1 NEGOTIATED 39:12 NEWLY 48:3 NICE 46:19 NON-DECEDENT 37:15 NON-REDACTED 15:18 NORMAL 21:20 NOTE 23:8,20 51:9 NOTED 1:7 9:18 NOTICE 9:7 41:6 52:16 NUMBER 1:1 4:27,28 5:1 6:1 7:19 8:2,10,13,14,17,21 12:8,11 14:27 18:21 35:9 NUMBERS 7:12,14,21 NUTS 47:5 <hr/> O <hr/> OBJECT 9:18 36:18 39:10 50:2 OBLIGATION 16:27 OCCURRED 24:5 OFFER 15:17 OFFERED 21:1 OFFICE 47:15,16 48:4 OLDER 44:1,3 OLSON 3:23 5:22 6:16 ONGOING 21:9 ONLINE 2:1 3:25 8:2 34:21 OPEN 21:5 22:7 25:25 27:28 28:2 33:9 50:26 OPINION 30:26,27 OPPORTUNITY 26:27 37:6 OPPOSE 23:1 OPPOSED 19:20 OPPOSITION 26:14,15,20,21 36:28
--	--	---

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: OPTION..PRIVACY

OPTION 49:2	PEEPLS 1:5 54:11,21	PLEADINGS 12:27 24:15,23 25:7,8 31:8 48:14
ORAL 50:9	PENDING 1:20,22	PLEASED 45:25
ORDER 1:15 3:28 6:22,24,25 7:1, 4,13,17 9:23 10:13,15,17,24 11:13,21,25 12:20 14:28 15:2,10 17:21 18:18 20:3,17,18,21,26 29:6 30:25,26 41:16,19,27 42:10, 19,24,26 43:10 45:27 51:17,20 52:2,8,16 53:1	PEOPLE 2:1,3 3:28 28:3 50:18, 27,28	POINT 2:21 4:4 7:14 14:10,24 27:2 35:24,25 48:4
ORDERED 13:9 34:1 42:28	PERFECT 9:6	POINTS 6:24 45:2
ORDERS 7:23 9:21 11:1 14:7 34:5 45:6	PERIOD 35:17 50:3	POLICY 12:1 38:26
ORDINARILY 16:17	PERMISSION 11:20	POSITION 10:9
ORGANIZATION 4:18	PERSON 22:18	POSSIBLY 32:3
ORGANIZE 25:9 46:12	PERSPECTIVE 13:16,19 15:8 21:4 31:11 39:24	POSTING 14:3 15:6 52:9 53:16
ORGANIZED 12:8 43:12	PERTAIN 26:23	POSTINGS 10:4,7
ORGANIZING 6:13	PETITION 48:5,7	POTENTIAL 31:18 40:13 41:24
OVERLAP 24:25	PHARMA 31:13	POTENTIALLY 29:26 32:8
<hr/> P <hr/>	PHILOSOPHICAL 46:13	POWER 49:6
P.M. 1:6 53:21	PHONE 52:5	PRACTICE 13:21
PAGES 30:8 45:16 54:13	PHV 1:20	PRECLUDED 33:25
PANDEMIC 1:11	PICK 24:20 25:27 26:27 46:14,16	PREFER 15:9 51:19
PANISH 1:27 2:5,6,7 6:10 17:27 22:2,3,5 29:14,17 37:3 50:4,10, 21,25 51:5 52:2,22	PICKING 40:14 46:22	PREFERENCE 46:11
PAPERS 5:24 6:3	PINE 30:24,26	PRELIMINARIES 4:13
PARAGRAPHS 10:24 11:9	PLACE 15:5 29:3 41:16 45:17 46:23	PRELIMINARY 33:19
PARRIS 49:6	PLAINTIFF 3:1 18:15 20:3 30:23 31:7 33:11,16 34:18 35:7,16 36:1, 2,3 37:25 38:10 40:9,11,15 41:3	PREMISE 29:14
PART 6:7 25:11 38:1 40:16	PLAINTIFF'S 7:26 32:5	PREPARE 9:8
PARTICIPATE 10:5,6	PLAINTIFFS 2:7,10,12,24,27 10:6 11:21 16:3,12,18,24 17:16 18:23 20:12,14 21:3 22:12,16,24 23:1,11,12 24:1,20 25:27 27:13 32:1 33:5,24 34:8,21,25 35:1,2,6, 19 36:10,27 37:16 38:3,7 39:8,10 41:16,26 42:11,13 45:20 46:13, 15,17 49:8	PREPARED 12:18 15:17
PARTIES 5:1 11:14,15,16 12:12 15:6 20:2,7,19 29:4 33:7	PLAINTIFFS' 1:17 6:1 12:18 13:6,16 26:14 27:16 28:27 30:20 38:9 46:5 52:15	PREPARING 12:16
PARTNER 5:22,25 6:7	PLAN 36:20,23 49:21	PRESCRIPTION 30:22
PARTY 12:7 25:17	PLANNING 18:3	PRESENT 11:25 26:5 32:6 45:27
PASSED 35:17	PLAYING 5:6	PRESENTED 20:19
PAST 28:4	PLEAD 16:24 22:17	PRESENTING 7:17
PATH 9:14 34:17 41:19	PLEADING 13:4,25 17:5,21 21:20 22:9 23:17 24:16,17 33:28	PRESENTS 25:14
PAUL 2:11 3:7 7:28 13:18 14:23 20:27 26:26 31:1 37:4 44:28		PRESERVATION 34:3 40:26
		PRETTY 13:1 21:27 32:23 44:6 52:1,11
		PREVAIL 46:17
		PREVIOUSLY 1:7
		PRINCIPLE 6:21
		PRINCIPLES 5:13
		PRIOR 38:9
		PRIVACY 24:11

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: PRIVILEGE..REPORTS

PRIVILEGE 38:28 39:1	PSEUDONYM 11:20	RECALL 35:21
PRO 1:22 3:20 49:27 50:10 54:11,21	PSEUDONYMS 11:22	RECALLED 36:5
PROBLEM 16:25 26:7 36:15 39:22 44:22 49:18	PUBLIC 12:1 14:17,26 30:17	RECEIVED 32:23
PROBLEMS 13:14 16:19,21,22, 26 17:5 23:12 26:10 53:15	PUEBLO 49:6	RECENT 11:18
PROCEDURAL 4:21 5:6	PURPOSE 24:19	RECENTLY 48:18
PROCEDURE 20:1 28:14 39:13	PURPOSES 24:22	RECOLLECTION 35:27 36:15
PROCEED 11:20,21 23:13 39:8, 9	PUT 4:6 15:9 29:6 39:8 40:21 44:26 50:14 51:17 52:7,28	RECOMMEND 11:1 41:26
PROCEEDINGS 1:6 12:2 30:13 54:4,15	PUTS 41:5	RECONVENE 43:9
PROCESS 1:24 8:3 13:25,28 16:5,11,13,15 17:17 21:20 27:8 32:2,4 33:17 34:18 35:16 37:28 39:12 40:9,11 47:8,11 48:23 52:22	PUTTING 46:19	RECORD 14:26
PROCESSING 50:8	<hr/> Q <hr/>	RECORDS 34:26,27 35:6,25 38:5 41:6
PRODUCE 34:20 38:18 41:4	QUALIFIED 46:16	RECUSAL 5:17
PRODUCED 33:23 35:6,26 38:8, 21 42:6	QUALITY 5:2	REDACTED 15:9 22:24,25
PROFFER 24:22	QUANTIFICATION 7:27	REDACTION 21:7
PROFILE 41:4,17	QUESTION 17:23 18:13 23:11 26:12,17 27:25 37:1 45:15	REDACTIONS 14:27 21:12 22:7, 21,28
PROGRAM 4:26 5:14	QUESTIONS 13:24 38:2	REDUCE 4:28 5:8
PROGRESSION 51:23	QUEUE 47:27,28 50:15	REFER 9:21 10:25 23:27 48:14
PROJECT 6:5	QUICK 14:10	REFERENCE 10:18,27
PROMPTLY 49:19	QUICKLY 5:9 52:1	REFERRING 16:16
PROPER 9:2 31:9	<hr/> R <hr/>	REFRESHED 35:28 36:15
PROPOSE 19:9 25:3 40:7	RAHUL 1:26	REGARD 7:25 10:22 11:8 16:11 34:21
PROPOSED 6:25 7:13 16:4 20:18 43:10 52:2,20	RAISE 11:13 12:2 27:9 45:2	RELATED 18:6
PROPOSING 29:6	RAISED 13:27 30:7	RELATES 20:4 24:26
PROPOUNDING 39:9	RAISING 25:12	RELATIONSHIPS 5:19
PROTECTIVE 10:13,15,17,23 11:1 12:20 14:28 15:2,10 41:16, 19	RAVIPUDI 1:26,27	RELEVANT 41:6,8,28 42:6 43:3
PROVIDE 37:18 38:7	REACH 4:7 9:12	RELIABLE 36:8
PROVIDED 4:18	REACHED 45:25	RELIEF 33:18,20 40:24
PROVIDING 41:17	READ 33:18 44:11,21	REMAINING 16:7
PSEUDOMONAS 11:17	READING 45:6	REMEMBER 4:15 35:10,20
	READY 17:16 22:13	REPEAT 3:27
	REALISTIC 28:15	REPETITIVE 25:1,8
	REASON 14:22 35:8	REPORT 4:17 6:23 8:13 9:8 17:9 30:8 53:9
	REASONABLE 18:18 38:14	REPORTER 1:5,14 54:11,21
	REASONS 21:3 40:12	REPORTER'S 1:15
		REPORTS 8:24 9:3

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: REPRESENTATIVE..SOCIAL

REPRESENTATIVE 40:3	SCHEDULED 43:10	SHEA 1:27
REPRESENTATIVENESS 27:2	SCHEDULING 30:4 50:22	SHEET 30:24 32:1 33:16 34:18 35:7,16 40:9,11
REQUEST 33:19 38:11,12	SCHMIDT 3:7,8 13:18 14:23 15:8 20:27 21:26 26:25,26 31:1,22 32:17 33:14 37:4,5 45:14 50:7 53:14	SHEETS 33:11 36:2,4 37:26 38:10 40:15
REQUIRE 5:17 10:23 20:21,23, 26 25:9 30:25	SCHNEIDER 3:1	SHORT 10:4 13:27 16:4 17:28 18:1,5,16 19:23,25 20:10,16,24, 25 21:17,18,19,24 23:10,23 24:18 26:8 32:22
REQUIRED 22:26 38:28	SCHOOLS 44:7	SHORT-CIRCUIT 45:22
REQUIREMENT 32:8	SCIENCE 43:17,21	SHOW 16:18 48:9
REQUIREMENTS 5:16 32:4,9 42:17	SCOPE 38:4	SHOWED 35:5
REQUIRES 11:19 20:17	SCRAMBLE 21:15	SHOWING 18:27 19:1 44:21
REQUIRING 30:27 33:15	SCREENSHOTS 44:21	SIDE 1:17 10:5,9 12:18 13:6 14:2 26:25 27:16 28:27 42:7 45:7,18, 20 46:5
RESOLUTION 4:28 5:11 6:11	SEAL 10:19 12:22 14:12,13,15, 22 22:26	SIDES 11:3 17:6 23:6 28:7 35:3
RESOLVE 23:14	SEALING 24:11	SIGN 1:14 7:23 9:23 44:5 45:9
RESPECT 22:20 26:2 34:12	SEATED 4:14	SIGNATURE 11:25
RESPOND 38:3	SECTION 28:2	SIGNED 48:8
REST 26:7	SELECTING 40:8	SIGNIFICANT 8:2,9
REVEALING 30:16	SEND 7:15 9:20	SIGNING 9:23
REVIEW 6:27	SENSE 9:5 28:25 34:28 37:27 38:11 39:15 41:3,9	SIMILAR 17:8 19:12,16 45:26
REWRITE 19:15	SEPARATE 50:15	SIMONSEN 3:5,6
RISE 31:17	SEPARATELY 26:20 34:3	SIMPLE 10:1
ROGERS 6:18 9:19 12:4 13:9,23 16:8 27:19,28 28:12 31:4 32:6,28 34:1 43:18 44:26 45:7 53:3	SEQ 11:8	SINCERELY 46:5
ROGERS' 14:4 34:5	SERIES 10:7	SINGLE 26:15 36:10
ROLE 20:3 21:21	SERVE 20:3 30:10 52:19	SIT 28:11
ROUND 27:10 36:2,3	SERVED 6:17 12:19	SITTING 27:28
RULE 4:26 10:18 11:8,26 30:15 47:17 54:5	SERVICE 9:24	SITUATIONS 5:17
RULES 6:9 10:21,25,26 22:22,28 30:11,13,15 39:13 43:24	SERVING 21:21	SLATE 35:21
RUN 53:15	SET 13:25 40:2 51:14 52:6	SLIGHT 19:19
<hr/> S <hr/>	SETTING 11:13 39:23 40:1	SLIP 21:15
SAFE 44:7	SETTLEMENT 6:12	SLOW 40:1
SAID/SHE 10:7	SEX 41:23	SMART 40:12
SALUD 49:6	SEXUALLY 24:4	SMITH 14:23
SAT 28:6	SHAPING 39:17	SNAP 3:15,24
SCHEDULE 15:26 18:5,6 23:6 27:20 29:2,3,6 52:20,21	SHARE 28:24 32:27 38:22	SOCAL 6:10
	SHARING 28:9	SOCIAL 1:2,12 2:9,20 31:16 43:25 54:6
	SHE'LL 48:12	

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: SOLUTION..THOUSAND

SOLUTION 39:22	STATES 19:21	SUPPLEMENTAL 25:17
SOMETHING'S 4:7	STATUS 8:12,24 9:3,9 11:13 17:6,9 50:19 53:2	SUPPLEMENTATION 25:25
SONSINI 3:10	STATUTES 42:2,3	SUPREME 27:23 29:7,12
SORT 5:13 11:28 15:10 16:25 17:15 28:21 30:15 37:21 39:12	STAY 33:28 51:11	SURPRISED 25:8
SORTED 12:9	STEP 43:12	SURROUNDING 6:12
SOUND 27:12	STIP 43:13 50:4,9,10	SWEEPING 33:2
SOUNDS 9:17 49:21	STIPULATE 50:1	<hr/>
SOUTHERN 24:2	STIPULATED 42:24	T
SPALDING 3:17	STIPULATION 50:9	<hr/>
SPEAK 1:28 4:4,5 31:8	STREET 44:12	TABLE 40:2
SPECIAL 11:6 38:25,26 54:5	STRICTER 10:21	TAKING 45:16 49:7
SPECIFIC 5:15 14:6 21:23 30:13, 25 32:13,14,18	STRICTLY 35:16	TALK 1:24 8:4 9:15 10:2 12:27 17:13,18 25:21 26:13 27:10 30:6 33:11,21 34:15 39:25 40:26 45:21
SPECIFICALLY 17:11 35:22	STRIKE 25:5,6	TALKED 18:10,11 34:15
SPECTRUM 30:23	STRONG 46:11	TALKING 16:9 23:15,16 32:4 38:6 49:13
SPEED 1:24	STRONGER 34:28	TALKS 11:28
SPENDING 43:19	STRONGEST 46:15	TANDEM 41:1
SPONTE 12:3	STRONGLY 43:25 46:20 47:3	TARIFA 3:12
SPREADSHEET 12:6,8 14:12	STRUCTURE 44:24 45:26	TEAM 42:15
STACK 26:22	STUDENT 35:9	TECHNICAL 4:6
STAFF 7:15,20 12:23 47:13	STUFF 43:3	TECHNICALLY 4:8
STAGE 19:5	SUA 12:3	TEMPORE 54:11,21
STAKE 40:6	SUBJECT 12:19	TEN 22:26
STANDARDS 28:20	SUBMIT 16:6 18:7 42:19 52:2	TERMS 13:24,26 20:2 21:14,21 26:14 27:1 30:22 31:9 36:15 37:11,20 42:16
STANDING 6:9 30:11	SUBSTANCE 19:16 22:8	TESTIMONY 36:5
STANDPOINT 43:22	SUBSTANTIAL 21:7	TEXT 25:20
STAR 4:12	SUBSTANTIALLY 8:15 19:11	TEXTING 22:3
STARING 37:24	SUBSTITUTE 36:9	THING 26:25 31:4 37:13 38:5 44:4,6 46:13
START 6:22 12:16 37:27 38:16 39:11 40:10 50:8	SUED 12:13	THINGS 5:18,21 6:14,23 7:2 10:12,22 12:15 16:23 21:14,15 23:7,21 35:14 37:10 39:6 41:20 43:15 52:11
STARTING 1:17	SUFFICIENT 11:5,7	THINKING 28:10 39:26
STARTS 27:20,21	SUGGEST 24:19 36:19,22 37:23 38:7 43:17 44:23	THOUGHT 29:1
STATE 2:15 10:17 28:5,9,13,14 29:25 30:10 42:2 54:1,12	SUGGESTED 31:5 37:24	THOUGHTS 8:7
STATED 4:1	SUGGESTS 41:18	THOUSAND 49:8
STATEMENT 31:12	SUMMONS 48:6	
STATEMENTS 17:6	SUPERIOR 10:28 54:1,12	
	SUPERVISE 39:5 44:9	

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: THROW..YEAR

THROW 28:22	UNDERSTANDABLE 21:3	VOLUNTEER 45:9
TIKTOK 3:13,17	UNDERSTOOD 14:20 17:12 32:27	<hr/> W <hr/>
TIME 1:6 5:23 7:27 9:16 16:24 17:24 18:14 25:4 31:10 35:17 38:6 41:25 42:1 43:19 44:2 50:2, 5,12,18 53:21	UNFAMILIAR 21:24	WAIT 27:23
TIMES 11:4 25:22 43:26 44:13	UNIVERSITY 24:2	WAITING 49:28 50:3,15
TIMING 27:17 51:23 52:3	UNLIKE 20:20	WAIVE 50:5
TITLE 54:5	UNMUTE 2:4	WAIVING 50:2
TODAY 45:24	UNMUTED 2:4	WALL 44:12
TOLLES 3:15,23 5:22 6:15	UNNECESSARY 22:8	WALLACE 3:1
TOOLS 37:18	UNREDACTED 15:6 22:25	WANTED 1:21 12:5 51:10
TOTAL 8:13 25:10,28	UNRELIABLE 36:11	WATCH 43:2
TOTALLY 11:7 43:1	UNUSUAL 27:1,5,6,9	WATER 49:5
TRACK 12:23	URGE 31:28	WAYS 12:10 27:14 30:2
TRACKS 13:20 31:5	USC 34:26 41:23	WEBSITE 10:28
TRANSCRIPT 54:15	USELESS 36:4	WEDNESDAY 51:2,6
TRANSFERRED 8:6	USER 43:22 44:16	WEDNESDAYS 51:8
TRANSPARENCY 12:1	USUAL 47:7	WEEK 7:5 43:9
TRAVELING 50:27,28	<hr/> V <hr/>	WEEKEND 51:11 53:12,19
TRIAL 39:23 40:1,5,10,15	VANZANDT 1:18 13:7,12,16 17:20 18:3,9,11,17,20 19:4,9,25, 28 20:15 27:15 28:26 42:12,25	WEEKS 52:27
TRICKY 27:18	VARIETY 40:12	WILSON 3:10
TROUBLE 4:9 9:15 47:26,27	VENUE 9:2	WISDOM 37:7
TRUE 54:14	VERSION 14:26 15:1,9,18	WOMEN 24:2,5 34:25
TURN 28:20	VERSIONS 15:7	WONDERFUL 1:11 28:12
TWOMLY 28:16	VERSUS 27:24	WORD 39:23 48:25
TYNDALL 23:25,26 34:22,24 36:12	VETTING 30:7,15	WORDS 17:7
TYPES 11:4	VICES 1:23 49:27	WORK 9:6 32:1 38:28 43:23 44:16 45:11 46:25 47:27,28 48:1, 13,22
TYPICAL 20:20	VICTIMS 2:9,20	WORKED 35:4 36:12
<hr/> U <hr/>	VICTORIA 3:23	WORKING 13:23 14:27 46:6
UBIQUITY 31:15	VIDEO 2:4	WORRY 11:27
UCL 40:24	VIEW 30:26	WORTH 41:2
ULTIMATELY 5:3 36:11 39:18	VIGOROUS 21:27	WRITTEN 50:9,10
UNBELIEVABLE 5:23	VIOLATE 29:14	WRONG 4:7 52:9
UNDERNEATH 26:22	VIS-A-VIS 35:2	<hr/> Y <hr/>
UNDERSTAND 21:22 27:22 36:17 45:6 48:10	VISITS 35:5,11	YEAR 38:25
	VOLUME 37:12	

SOCIAL MEDIA CASES
JCCP5255, 02/17/2023

CERTIFIED COPY

MOTION
Index: YEARS..ZILCH

YEARS 5:22,23,27 35:10

YOUTUBE 3:11

Z

ZILCH 43:26